

1 IN THE UNITED STATES DISTRICT COURT.

2 FOR THE WESTERN DISTRICT OF MICHIGAN

3 SOUTHERN DIVISION

4 UNITED STATES OF AMERICA,

5 Plaintiff, No: 1:20cr183-1/2/5/6

6 vs.

7 ADAM DEAN FOX,
8 BARRY GORDON CROFT, JR.,
9 DANIEL JOSEPH HARRIS and
BRANDON MICHAEL-RAY CASERTA,

10 Defendants.

11 Before:

12 THE HONORABLE ROBERT J. JONKER

13 U.S. DISTRICT Judge

14 Grand Rapids, Michigan

Wednesday, March 30, 2022

Excerpt of Jury Trial Proceedings

15 Testimony of Katherine Martinez, Chasity Knight, Timothy John
16 Hunt, Robert Gillette, Kelly Van Arsdale, Colleen Kuester,
Lindsay Cowan and Megan Cooley

17 APPEARANCES:

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19 By: MR. NILS R. KESSLER

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REPORTED BY: MR. PAUL G. BRANDELL, CSR-4552, RPR, CRR

1 03/30/2022

2 (Proceedings, 8:28 a.m.)

3 LAW CLERK: All rise, please.

4 (Jury in, 8:28 a.m.)

5 LAW CLERK: The United States District Court for the
6 Western District of Michigan is now in session. The Honorable
7 Robert J. Jonker, chief judge, presiding.

8 THE COURT: All right. Good morning everyone.
9 Welcome. It's good to see you. Some day I hope that people
10 recognize how incredibly prompt this jury is, because we've
11 been able to start most mornings at least a couple minutes
12 before the start time, at least the official start time of
13 8:30, and that's a true tribute to the lawyers and the parties
14 in getting here on time but also and especially to all of you
15 in the box, and we appreciate your ongoing attentiveness to
16 that responsibility.

17 We're here this morning to pick up with the
18 government's case and the government's next witness, and we'll
19 get started right away so we stay on track. Mr. Kessler?

20 MR. KESSLER: Thank you, Your Honor. We'll start this
21 morning with Special Agent Katherine Martinez.

22 THE COURT: All right.

23 KATHERINE MARTINEZ, GOVERNMENT

24 having been first duly sworn, testified as follows:

25 (Witness sworn, 8:30 a.m.)

DIRECT EXAMINATION

BY MR. KESSLER:

Q Good morning, Agent Martinez.

A Good morning.

Q You are a special agent with the FBI, correct?

A That's correct.

Q And are you currently assigned to the Baltimore field office?

A Yes.

Q Can you tell the jury what part of that field office you are assigned to?

A So I am assigned to the Wilmington Delaware agency. I work for a white collar squad.

Q How long have you been with the FBI?

A I joined the FBI in July of 2019.

Q Let me take you back to October 8th of 2020. Did you assist in a search of a tractor-trailer that day?

A Yes. I did.

Q Whose tractor-trailer was that?

THE COURT: Can I ask you to slide the microphone a little closer to you? Go ahead.

BY MR. KESSLER:

Q Whose tractor-trailer was it that you helped to search?

A Barry Croft.

Q Let's focus specifically on the time around midnight to

1 1:00 a.m. Where were you staged at that time?

2 A So we were staged at originally Troop 2, which is the
3 Delaware State Police troop where we were meeting, and then I
4 responded to a Wawa in New Jersey.

5 Q Where is Troop 2 in Delaware?

6 A Newark.

7 Q Did you know exactly where you were going to be sent that
8 night?

9 A No.

10 Q So you said that you were sent to a Wawa in New Jersey.
11 Here in Michigan I don't know if everybody is familiar with
12 Wawa. What is a Wawa?

13 A So Wawa is a convenience store gas station.

14 Q Okay. And why exactly did you go there?

15 A So I was told that there was a tractor-trailer at that
16 location that we needed to search, and I happened to have a
17 camera with me so I was going to be the photographer for the
18 search.

19 Q Okay. You are not a -- being a photographer is not your
20 specialty in the FBI, right?

21 A Not at all.

22 Q You had one that was charged though?

23 A Yes. I happened to have one charged with me that day.

24 Q All right. So let's talk about what happened when you got
25 there. You mentioned it was in New Jersey. Do you remember

1 around what city that convenience stop was?

2 A I believe Swedesboro.

3 Q Any other agents accompany you there?

4 A Yes. I was with Special Agent Jeff Rising, and there was a
5 task force officer with the Wilmington Police Department. He
6 was there as well.

7 Q And when you arrived at the Wawa did you see the truck
8 there?

9 A Yes.

10 Q Was Mr. Croft there at the time?

11 A No.

12 Q Okay. And so he had already been taken into custody?

13 A As far as I know, yes.

14 Q Did you take photos in place before you actually seized any
15 physical evidence?

16 A Yes.

17 Q All right. Have you had a chance to look at the photos you
18 took since that time?

19 A Yes. I have.

20 Q And are those all accurate representations of what you saw?

21 A Yes.

22 Q All right. Same pictures that you took, right?

23 A Yes.

24 MR. KESSLER: Your Honor, I would offer at this time
25 Government Exhibits 349 and 350.

1 THE COURT: Maybe we should see if she can identify
2 those are the pictures she took unless the Defense has no
3 objection. Any objections?

4 MR. BLANCHARD: No. I don't.

5 THE COURT: All right. So 349 and 350 can come in.

6 BY MR. KESSLER:

7 Q Let's take a look at 349 first. Agent Martinez, what are
8 we looking at here?

9 A So that's a backpack with a knife on it that's in the truck
10 cab between the driver's area in the front sort of at the top
11 of the photo and then the bottom half of the photo is the
12 living area in the tractor.

13 Q And let me just have you explain that to the jury for
14 anybody who is not familiar with how a long haul truck cab
15 might be constructed. What are the parts of that truck cab?

16 A So I didn't know either, but when I went into the truck
17 there is a driver's seat, passenger seat, and then in between
18 them you can go into a little area in the back where there is a
19 small living area. It's sort of like a day bed. You can set
20 it up as a couch or a bed.

21 Q So in between there is where you found this bag?

22 A Yes. I think the bag had been leaning on the floor right
23 there between the cab area and the living area.

24 Q All right. And let's bring up Exhibit 350, please. What
25 are we looking at here?

1 A That's a firearm.

2 Q And do you know what kind of firearm?

3 A A Glock. I don't know a lot about firearms, so...

4 Q A Glock semiautomatic handgun?

5 A Yes.

6 Q And what are these here?

7 A Magazines.

8 Q And specifically, can you see at the end here, were they
9 loaded?

10 A Yes. They were.

11 Q Okay. And we see it sitting here on the passenger seat
12 with the magazine sitting out like that. Did you find it
13 exactly like that?

14 A No.

15 Q How did you find it?

16 A There was a stack of some things on the passenger seat, and
17 it was tucked within the things on the passenger seat. That
18 smaller magazine was also loaded in the firearm.

19 Q So it was in the handle here?

20 A Correct.

21 Q Okay. And have you had a chance to look at Exhibit 366,
22 which is in front of you?

23 A Yes.

24 Q Okay. And is that the actual physical Glock handgun?

25 A In the box in front of me, yes, that's correct.

1 MR. KESSLER: I'd offer that into evidence if there is
2 no objections?

3 THE COURT: So 366 is now --

4 MR. KESSLER: I'm sorry, 336. My apologies.

5 THE COURT: 336. Any objections? All right. Hearing
6 none, 336 is admitted

7 BY MR. KESSLER:

8 Q Agent Martinez, can you briefly just take that out and show
9 it to the jury, please?

10 A So it's got zip ties and it's locked. It's got an attached
11 flashlight.

12 Q Okay. Thank you very much, Agent.

13 I'd like to show you a couple more photographs. I am
14 going to talk to you about what's been marked for
15 identification as Exhibits 351, 352, 353, 354, 355 and 356.

16 We can go through them one at a time or if there is no
17 objections I'd offer them now?

18 THE COURT: All right. 351 to 356, any objections?

19 MR. BLANCHARD: If those are all photos you took I
20 have no objection.

21 BY MR. KESSLER:

22 Q Are these photos you took, Agent Martinez?

23 A Yes. I was the only photographer.

24 THE COURT: They are admitted. Go ahead.

25 BY MR. KESSLER:

1 Q Let's start with Exhibit 351. What are we looking at here,
2 Agent Martinez?

3 A That's sort of the day bed couch area as I was describing
4 it. There is a Hawaiian male shirt on the day bed area.

5 Q Let me clear these dots here. Is that where you found them
6 or were they moved to take the picture?

7 A So my recollection is that the shirt was on the day bed
8 area but I think we spread it out for the picture.

9 Q Okay. Can we show Exhibit 352, please?

10 And we have something redacted here because it has
11 personal information but what are we looking at here?

12 A So that is the driver's seat of the truck. It's a
13 tri-corner hat. There were two camouflage neck scarves and
14 then his wallet with his driver's license, Barry Croft's
15 driver's license.

16 Q And it wasn't found propped up in the hat like that?

17 A No. It was not found that way. We placed it that way in
18 order to take the photo.

19 Q All right. Can we bring up Exhibit 353, please?

20 What do we have here?

21 A So that's the backpack from the first picture that we've
22 opened up and propped on the day bed in the back to take
23 pictures of the items inside the backpack.

24 Q And let me ask you about what a few of those items are
25 here. This thing that says life straw here, what's that?

1 A So that's a device you can use, at least my understanding
2 is that you can drink from various water sources and it makes
3 it safe for you to drink the water.

4 Q Exhibit 354, please?

5 All right. Did you open the bag?

6 A Yup. That's just the larger pocket of the backpack. There
7 is some clothing in there.

8 Q What kind of clothing was in there?

9 A It looks like camouflage camping type clothing.

10 Q All right. Let's look at Exhibit 355, please.

11 What's in the pocket of the bag over here?

12 A So those are two additional magazines.

13 Q Same caliber as the handgun?

14 A Yes.

15 Q Exhibit 356, please?

16 And do you know what these things are here?

17 A I don't remember what they are. I remembered that when we
18 cataloged the backpack it was -- we deemed it sort of
19 survivalist camping type gear.

20 Q All right. And we saw a picture of the tri-corn hat. Have
21 you had a chance to look at Exhibit 333?

22 A Yes.

23 Q All right. Is that there in front of you?

24 A Yes.

25 Q Is that the physical object?

1 A Yes.

2 MR. KESSLER: I'd offer that into evidence, Your
3 Honor?

4 THE COURT: Hearing no objections it's admitted.
5 BY MR. KESSLER:

6 Q Can you pick that up and show the jury, please? Thank you.

7 A So these are the bandanas that you can see in the picture.
8 This is the tri-corner hat.

9 Q Can you hold it up so everyone can see it? Okay. Thank
10 you.

11 A It's gotten a little smushed over time.

12 Q Exhibit 344, is that the physical backpack?

13 A Yes.

14 MR. KESSLER: I'd offer that into evidence, Your
15 Honor. I'm sorry, 334. I keep messing up my numbers this
16 morning.

17 THE COURT: Hearing no objections, 334 is admitted.
18 BY MR. KESSLER:

19 Q And can you show the jury that, please? Thank you.

20 All right. And finally, Exhibit 335. Is that the
21 physical Hawaiian shirt?

22 A Yes.

23 MR. KESSLER: I'd offer that into evidence?

24 THE COURT: Hearing no objections it's admitted.

25 BY MR. KESSLER:

1 Q Can you bring that one out and show the jury, please? All
2 right.

3 Thank you very much, Agent Martinez.

4 I have nothing further, Your Honor.

5 THE COURT: All right. Mr. Gibbons?

6 MR. GIBBONS: No questions, Your Honor.

7 THE COURT: Ms. Kelly?

8 MS. KELLY: None, Your Honor. Thank you.

9 THE COURT: Mr. Hills?

10 MR. HILLS: No, Your Honor.

11 THE COURT: Mr. Blanchard?

12 MR. BLANCHARD: Thank you.

13 CROSS EXAMINATION

14 BY MR. BLANCHARD:

15 Q Good morning, Agent Martinez.

16 A Good morning.

17 Q So you responded to this Wawa to do a search, right?

18 A Yes.

19 Q And the search was done based on Mr. Croft's consent,
20 right?

21 A Yes. That was the information I had.

22 Q Yeah. He gave you permission to search, right?

23 A Yes.

24 Q Didn't make you get a search warrant?

25 A Correct.

1 Q Didn't fight with you?

2 A He wasn't even there when I got there.

3 Q Fair enough. When you go the search, you said the items
4 that were in, like, 356, that's the backpack, right?

5 A Yes.

6 Q You described those as --

7 A The backpack is 334.

8 Q I'm sorry. The photo of the backpack is 356, right?

9 A Okay.

10 Q And 334 was the backpack, right?

11 A Yes.

12 Q You described those as survivalist or camping gear,
13 correct?

14 A Yes.

15 Q So like the life straw is a water filter that you, you
16 know, in a pinch can drink out of a puddle or a lake, right?

17 A Yes.

18 Q And then there was, like, rope and that sort of thing,
19 correct?

20 A I don't remember everything that was in it. I can open it
21 right now and pull it out if you'd like.

22 Q Camping gear is legal, right?

23 A Yes. True.

24 Q Water filters are legal, right?

25 A Yes.

1 Q Okay. Sort of like prepper stuff, is that fair?

2 A Sure. Yes.

3 Q Okay. You also found marijuana in the truck, right?

4 A We found a green leafy substance, yes, that I think I
5 characterized in my 302 as marijuana, but we never tested it.

6 Q Right. You are an FBI special agent, right?

7 A Yes.

8 Q You have encountered marijuana a time or two, right?

9 A Yes.

10 Q You believed it was marijuana, right?

11 A Yes. We did.

12 Q Okay. And you saw marijuana smoking tools, right?

13 A Yes.

14 Q Paraphernalia?

15 A Correct.

16 MR. BLANCHARD: Okay. I have nothing else.

17 THE COURT: All right. Any redirect?

18 MR. KESSLER: No, Your Honor. Thank you.

19 THE COURT: All right. Thank you.

20 (Witness excused, 8:42 a.m.)

21 THE COURT: You might be the record for the shortest
22 stay, or close. We'll go to the government's next witness.

23 MR. KESSLER: The government calls Chasity Knight,
24 Your Honor.

25 THE COURT: We'll have you sworn in before you take

1 the stand, Ms. Knight.

2 CHASITY NIGHT, GOVERNMENT

3 having been first duly sworn, testified as follows:

4 (Witness sworn, 8:43 a.m.)

5 THE COURT: All right. And please step up and get
6 comfortable and we'll turn it over to Mr. Kessler for direct.

7 MR. KESSLER: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY MR. KESSLER:

10 Q Good morning, Ms. Knight.

11 A Good morning.

12 Q I know you are a little nervous so take your time here.

13 A Okay.

14 Q How old are you?

15 A Forty.

16 Q All right. And where do you live?

17 A I reside --

18 Q I don't need your home address.

19 A During the week I reside in Delaware.

20 Q Where in Delaware? What city?

21 A Bear, Delaware.

22 Q And you said that's during the week. Do you reside
23 somewhere else on weekends?

24 A Every other weekend at my sister's in northeast.

25 Q When you say in northeast, we are here in Michigan?

1 A Maryland.

2 Q Northeast Maryland. Okay. What do you do for a living?

3 A I take care of Barry's three girls.

4 Q That's a full-time occupation for you?

5 A Yes.

6 Q Where were you from originally?

7 A Maryland.

8 Q Okay. What's your relationship with Mr. Croft?

9 A I am his girlfriend.

10 Q How long have the two of you been together?

11 A Since 2011.

12 Q Were you at one point engaged to be married?

13 A Yes.

14 Q And during all this time since 2011, have you been living
15 with Mr. Croft?

16 A I was staying at his address, yes, and he stayed at mine in
17 Maryland.

18 Q Okay. And when you were staying with him at his address,
19 was that the house in Bear, Delaware?

20 A Yes.

21 Q So you have known Mr. Croft for a long time, right?

22 A Yes.

23 Q Can you tell the jury what his attitude toward the
24 government has been all that time?

25 A He was -- he didn't like the government. He was

1 antigovernment.

2 Q What kinds of things did he say about it?

3 A He just thought the government is not for him. That the
4 government doesn't help the people out. They like to line
5 their own pockets.

6 Q Has he been talking like this since 2020 or longer?

7 A I don't exactly recall the exact date. I just know he's
8 never really been fond of government.

9 Q All right. Now, I am going to try and -- I am going to put
10 up a couple of exhibits and we are going to go over those real
11 quick, okay?

12 A Yes.

13 Q Can we bring up Exhibit 48, please?

14 All right. I am showing you a picture of Barry Croft.
15 You recognize him, right?

16 A Yes.

17 Q This tattoo we can read, it says, expect us, and then
18 underneath that, second continental Delaware regimen?

19 A Yes.

20 Q Do you remember that tattoo?

21 A I do.

22 Q Do you remember when he got it?

23 A No.

24 Q All right. Now, do you remember talking to us a week or
25 two ago about this?

1 A Yes.

2 Q All right. Do you remember you said you have been with him
3 since 2011? Did you at any point break up for a while with
4 Mr. Croft?

5 A I did.

6 Q Do you remember about when that was?

7 A I broke up with him 2017ish.

8 Q Okay. And did you actually leave the Delaware area for a
9 while?

10 A I did.

11 Q All right. Where did you go?

12 A Florida.

13 Q So it was around 2017ish. Do you remember if Barry Croft
14 had this tattoo on his arm before you left for Florida?

15 A Yes. He did.

16 Q So he had it already in 2017?

17 A Yes.

18 Q And on the other arm he's got a tattoo that says, we the
19 people. Have you seen that?

20 A Yes.

21 Q Did he also have that one on his arm before you left in
22 2017?

23 A Yes.

24 Q On one of his hands he has a tattoo that's the roman
25 numeral three surrounded by stars. Do you remember that?

1 A Yes.

2 Q Do you remember when he got that?

3 A No.

4 Q Was that also before you left for Florida?

5 A Yes.

6 Q Can we put up Exhibit 332, please?

7 Do you recall seeing these at your house?

8 A Yes.

9 Q What are they?

10 A They are patches.

11 Q All right. Do you know who ordered those?

12 A Barry Croft.

13 Q All right. Can we just blow up the package itself, the
14 box?

15 All right. And it says here, ship to Chasity Knight.
16 That's you, right?

17 A That's correct.

18 Q Why were they shipped to you?

19 A Cause that's the address I was living at and that's where I
20 was living, so we had them shipped to me to receive them
21 because he is an over-the-road truck driver.

22 Q He is an over-the-road truck driver. Okay. Was he with
23 you then? Was he living with you at the time?

24 A Yes.

25 Q And let's blow up just this part of it right here if you

1 would.

2 It says that this package was mailed to you on June
3 23rd, 2017. Is that when you recall receiving those patches?

4 A I don't recall when I received them.

5 Q Okay. But it was before you went to Florida?

6 A Yes.

7 Q Do you recall Barry Croft doing a podcast from your house?

8 A Yes.

9 Q What was the name of the podcast?

10 A We the people, and it had something at the end of it.

11 Q What was that podcast about?

12 A It was about different things we followed. The trial of
13 Lloyd Finnigan. We talked about constitutional rights, safety
14 of committees.

15 Q Safety committees you said?

16 A Yes.

17 Q What is that?

18 A It's how to put people come together I think in your --
19 where you live at your communities.

20 Q To do what?

21 A I am not sure.

22 Q Do you recall Barry Croft talking about a second American
23 revolution?

24 A No.

25 Q Do you recall him talking about using force against the

1 government?

2 A No.

3 Q Do you remember when we talked about this about two weeks
4 ago? We talked about voting, do you remember that?

5 A Yes.

6 Q What was the nature of that conversation? Did you talk
7 with Barry Croft about voting?

8 A I told him -- we had a lot of --

9 MR. BLANCHARD: I am going to object as to hearsay for
10 the things that she told Mr. Croft.

11 THE COURT: I think at this point we can hear what she
12 has to say in the same fashion that we did with some of the
13 other witnesses who were on the stand. Go ahead if you are
14 able, and if you want to reframe the question or take a minute
15 you can do that, Mr. Kessler.

16 BY MR. KESSLER:

17 Q So what I'm looking for is what Barry Croft said to you
18 about this. So did you talk with him about voting?

19 A I have talked to him about voting, how I felt about the
20 voting.

21 Q Okay. And this will help us understand his response to
22 you. What did you tell him about voting?

23 A I think that we should vote in order to get things to
24 change.

25 Q And what did Barry Croft say to you?

1 A He doesn't vote.

2 Q All right. But besides voting how did he say that he --
3 that you should get things to change?

4 A I don't recall.

5 Q Do you recall telling me it was with guns?

6 A No. I don't.

7 Q Did you agree to disagree?

8 MR. BLANCHARD: Objection, Your Honor. She says she
9 doesn't recall the conversation. I think this is improper
10 impeachment.

11 THE COURT: Well, she didn't recall the specific word
12 or specific phrase. She can answer the new question, which is
13 broader, if she's able.

14 BY MR. KESSLER:

15 Q When you said that you told Barry you should vote to change
16 things, did he agree with you?

17 A I don't recall.

18 Q Do you recall saying that you agreed to disagree with
19 Barry?

20 A I do.

21 Q Okay. And I want to ask you specifically about September
22 11th, 12th and 13th. Did you go with Mr. Croft to a field
23 training exercise in Luther, Michigan?

24 A I did.

25 Q And do you remember how long of a drive it was?

1 A A long drive. It was over 11 hours.

2 Q All right. Do you remember an explosive device being
3 detonated there in Luther, Michigan?

4 A I can't recall what device it was.

5 Q What do you recall about it?

6 A I just recall a big boom.

7 Q A big boom?

8 A Correct.

9 Q And before you heard that big boom, what did you see Barry
10 Croft doing?

11 A He was walking away from where I was over a hill.

12 Q And what about Daniel Harris; do you recognize Daniel
13 Harris in the courtroom today?

14 A I don't see him.

15 Q All right. Look around you.

16 A I see him.

17 Q All right. Can you tell us where he is and what he is
18 wearing?

19 A He is with the glasses in the second seat.

20 Q Second seat in the back row here?

21 A Yes. Next to the lady.

22 Q Okay. Did you see Daniel Harris, too?

23 A Yes.

24 Q What did you see Daniel Harris doing right before the
25 explosion that you heard?

1 A Just walking away with Barry.

2 Q And then you heard the boom?

3 A Yes.

4 Q You remember October 8th, the day that Barry Croft was
5 arrested?

6 A Yes.

7 Q Okay. You told the jury a couple minutes ago that you have
8 been taking care of his kids ever since, right?

9 A I have, yes. And I have taken care of them before then,
10 yes.

11 Q And how old are they?

12 A Right now they are 12 and 14.

13 Q So at the time they would have been around 10 and 12?

14 A When the arrest, correct.

15 Q Can we play Exhibit 94, please? Let's try that again. Is
16 our audio not hooked up?

17 Is it possible it's one of the settings between the
18 computers and there?

19 THE COURT: I don't think so.

20 BY MR. KESSLER:

21 Q Do you recall hearing that audio?

22 A I do.

23 MR. KESSLER: Can we just put the transcript up then?

24 THE COURT: Hit the arrow. That's usually an
25 indication. No luck. Sorry.

1 BY MR. KESSLER:

2 Q All right. I'll read it to you. It says, daughter, daddy?
3 Croft, what honey? Daughter, do you want a Dorito? Croft
4 says, honey, I am making explosives. Can you get away from me,
5 please? Daughter, oh, okay. Croft says, yeah, thank you. I
6 love you. Get out of here. Some things you just can't do with
7 pop, you know what I mean? Do you recall hearing that
8 conversation?

9 A I do.

10 Q Did you recognize Mr. Croft's voice?

11 A I did.

12 Q Did you recognize which one of the daughters it was?

13 A I did.

14 Q Which one was it?

15 A It was Amber.

16 Q How old is Amber?

17 A She was 12 at the time.

18 MR. KESSLER: I have nothing further, Your Honor.

19 THE COURT: All right. Do you need a little break or
20 are you okay, Ms. Knight?

21 THE WITNESS: I am okay.

22 THE COURT: All right. Would you like any water?

23 THE WITNESS: I am okay. Thank you. Yes.

24 THE COURT: Then we'll go to any cross from
25 Mr. Gibbons first?

1 MR. GIBBONS: Your Honor, this is relevant to
2 Mr. Croft primarily. I would like to reserve in any event I
3 have questions.

4 THE COURT: Ms. Kelly?

5 CROSS EXAMINATION

6 BY MS. KELLY:

7 Q Good morning, ma'am.

8 A Good morning.

9 Q My name is Julia Kelly. I represent Daniel Harris who you
10 just identified. You talked about him kind of walking away
11 from you at the training in Luther, do you remember that?

12 A Yes.

13 Q Okay. Did you see anything in his hands?

14 A No.

15 MS. KELLY: Okay. I have nothing further.

16 THE COURT: Mr. Hills?

17 MR. HILLS: No, Your Honor. Thank you.

18 THE COURT: Mr. Blanchard?

19 MR. BLANCHARD: Thank you.

20 CROSS EXAMINATION

21 BY MR. BLANCHARD:

22 Q Good morning.

23 A Good morning.

24 Q We've talked on the phone before, right?

25 A Correct. Yes.

1 Q I guess we haven't really met in person. I represent
2 Mr. Croft. You know that, right?

3 A Yes.

4 Q Okay. So I understand that a few years ago you had to have
5 some brain surgery, right?

6 A Correct.

7 Q And that has impacted you, right?

8 A Correct.

9 Q It impacts your memory in some respects, right?

10 A Correct.

11 Q Okay. I just wanted the jury to understand why some of the
12 things you didn't recall might be the case.

13 You know Mr. Croft, right?

14 A Yes.

15 Q You have been in a relationship for quite a while, true?

16 A Yes.

17 Q Throughout that time I think you said Mr. Croft doesn't
18 like the government, right?

19 A Yes.

20 Q Fair to say he has been vocal about that?

21 A Yes.

22 Q Even had a podcast about it?

23 A Correct.

24 Q And the FBI has asked you about that podcast?

25 A Yes.

1 Q They seemed bothered by it, fair?

2 MR. KESSLER: Hearsay.

3 THE COURT: She can answer if she had formed an
4 opinion at the time about whether they were bothered or not.
5 It doesn't necessarily require words.

6 THE WITNESS: I don't think they were bothered by it.
7 They just asked questions.

8 BY MR. BLANCHARD:

9 Q Okay. Throughout the time you've known Mr. Croft he's used
10 marijuana?

11 A Yes.

12 Q Frequently?

13 A Yes.

14 Q Daily?

15 A Yes.

16 Q About how much marijuana do you think he uses on an average
17 day?

18 A I have no clue.

19 Q Okay. Would he smoke more than once a day?

20 A Yes.

21 Q More than twice a day?

22 A Yes.

23 Q Sort of a constant thing, is that fair?

24 A Well, yes.

25 Q Okay. Does he use marijuana more when he is, you know,

1 around friends?

2 A Yes.

3 Q Okay. And this podcast that you talked about, did you say
4 that was around 2017?

5 A I believe so.

6 Q Okay. And what sorts of topics were on the podcast?

7 A We followed a trial. We did -- talked about constitutional
8 rights, safety of committees.

9 Q When you say constitutional rights, what do you mean?

10 A How to restore them, teach younger generations your
11 constitutional rights that have lost, what your constitution
12 means.

13 Q Okay. And when you say teach younger people, what do you
14 mean by that?

15 A So they can learn your constitution that hasn't learned it
16 yet.

17 Q Was that something that was important to Mr. Croft?

18 A Yes.

19 Q How long has teaching younger people about the constitution
20 been important to Mr. Croft?

21 A For a while. For a few years.

22 Q We had heard some testimony about Mr. Croft and wanting to
23 make silver coins from another witness. Are you familiar with
24 that?

25 A Yes.

1 Q What do you know about Mr. Croft and silver?

2 MR. KESSLER: I am going to object to hearsay if this
3 is coming from Mr. Croft.

4 THE COURT: Yeah. If it -- you know, I think you need
5 to lay a little bit more foundation so it just doesn't recycle
6 words from Mr. Croft, but if there is another basis for
7 knowledge or what she observed you can certainly do that.

8 BY MR. BLANCHARD:

9 Q Was there silver in the house?

10 A Yes.

11 Q What kind of silver was in the house?

12 A A silver bar.

13 Q Okay. And I think we have seen a picture of that
14 previously. Give me one moment here. Do you know what the
15 purpose of the silver bar was?

16 MR. KESSLER: Same objection.

17 MR. BLANCHARD: I just asked if she knew what the
18 purpose was right now. I didn't ask what it was.

19 THE COURT: Well, I mean, if the purpose -- the silver
20 bar itself doesn't have a purpose. It just is. So it's got to
21 be a human being's purpose, and the only human being we know of
22 other than the witness on the stand right now is Mr. Croft
23 related to that. So if you want her to express what her
24 purpose was, that's one thing. If you want Mr. Croft 's
25 purpose, I don't see how that comes in without Mr. Croft's

1 words, and that's a hearsay problem.

2 MR. BLANCHARD: Well, could I show the witness -- I
3 guess I don't recall if 3004 was admitted or just
4 provisionally, so subject to linking up.

5 MR. ROTH: We show it as referenced but not admitted,
6 Your Honor.

7 THE COURT: All right. I see the same thing.

8 MR. BLANCHARD: Can I show just the witness 3004,
9 please?

10 THE COURT: It'll come up on your screen, Ms. Knight.

11 THE WITNESS: Okay.

12 BY MR. BLANCHARD:

13 Q Do you recognize this, ma'am?

14 A Yes.

15 Q What is it?

16 A It's a silver bar.

17 MR. KESSLER: I think he's just going to go ahead and
18 testify to something.

19 THE COURT: He hasn't got there yet. Let him do what
20 he is allowed to do and she can identify that is a silver bar.
21 Go ahead.

22 BY MR. BLANCHARD:

23 Q Where was this at?

24 A At Barry's residence in the kitchen.

25 Q Okay. So did you have a purpose with Mr. Croft with the

1 silver bar?

2 A No. I did not.

3 Q Okay. You can take that down.

4 But that bar was seized from Mr. Croft's residence,
5 correct?

6 A Yes. It was.

7 Q Okay. Do you know a person by the name of Jennifer or
8 Jenny Plunk?

9 A I do.

10 Q How do you know her?

11 A She was Barry's friend.

12 Q When did you first meet her?

13 A I met her in Ohio.

14 Q Okay. In the summer of 2020?

15 A I don't recall the date.

16 Q Okay. Was that around Columbus, Ohio, in that --

17 A I believe so.

18 Q Dublin perhaps?

19 A One of them I know.

20 Q Okay.

21 A I don't know which one.

22 Q Did you meet her at a hotel or somewhere else?

23 A A hotel.

24 Q Okay. Did Ms. Plunk ever come to Delaware?

25 A Yes.

1 Q About when was that?

2 A It was the summertime.

3 Q Was it after you met her the first time?

4 A Correct.

5 Q Did she come with anyone else?

6 A Yes.

7 Q Who did she come with?

8 A She came with Robeson, Steve Robeson, and another gentleman
9 was there.

10 Q Okay. What did they do when they were there?

11 A We went out to dinner, and then they hung out with Barry,
12 and they tried to get Barry to go back to --

13 MR. KESSLER: Objection. Hearsay.

14 THE COURT: Yeah. I mean, what we can know,
15 Ms. Knight, to the extent you are able, is what you saw these
16 people do, and what we can't know is the words they said, if
17 any, at least not at this point. So if you are able to focus
18 on what you observed, that's okay.

19 You can go on, Mr. Blanchard.

20 MR. BLANCHARD: Thank you.

21 BY MR. BLANCHARD:

22 Q Did Mr. Croft go back to a hotel with them?

23 A No.

24 Q Okay. Did you -- did they come to your house?

25 A Yes.

1 Q Okay. Did you -- did you see any drug use?

2 A No.

3 Q Okay. Was there a time -- and I don't know. Was there a
4 time that you went to South Carolina with Mr. Croft?

5 A I went to -- no.

6 Q Okay. So you have not -- you have not met with Mr. Robeson
7 in South Carolina, is that accurate?

8 A That's correct.

9 Q Okay. You heard that audio recording -- or I guess you
10 didn't hear it. Mr. Kessler read for you that transcript about
11 the Dorito, right?

12 A Yes.

13 Q Were you present in Cambria, Wisconsin?

14 A No.

15 Q Okay. Do you know if anyone went with Mr. Croft from
16 Delaware to Cambria?

17 A Yes.

18 Q Who was that person?

19 A Jenny.

20 Q Jenny Plunk?

21 A Yes.

22 Q How did that come about, if you know?

23 A I don't know.

24 Q Okay. And so we talked about Ms. Plunk came to Delaware
25 with Mr. Robeson some time after you met them in Ohio, right?

1 A Yes.

2 Q Is that the only other time you saw Mr. Robeson?

3 A Besides the Michigan, yes.

4 Q Okay. There's been a lot of talk about fireworks in this
5 case. Have you seen Mr. Croft with fireworks before?

6 A Yes.

7 Q Does he like fireworks?

8 A Yes.

9 Q Do you guys often set off fireworks at the 4th of July?

10 A Yes.

11 Q Is that every year you do that?

12 A Yes.

13 Q What kinds of fireworks do you set off?

14 A I don't know what kind they are. They are just fireworks.

15 Q Well, the kind that shoot up into the air or sparklers or
16 snap pops or something else?

17 A All of them.

18 Q You set off all the kinds of fireworks?

19 A Yes.

20 MR. BLANCHARD: If I could have just one moment,
21 please?

22 THE COURT: Sure.

23 MR. BLANCHARD: I'm pass the witness, Your Honor.

24 THE COURT: Mr. Gibbons?

25 MR. GIBBONS: No questions, Your Honor.

1 THE COURT: Redirect?

2 MR. KESSLER: No redirect.

3 THE COURT: Thank you, Ms. Knight. You may be
4 excused.

5 (Witness excused, 9:06 a.m.)

6 THE COURT: We'll go to the government's next witness.
7 There are people in the back of the gallery sometimes making a
8 sign that would look to me like they are looking, hey, I can't
9 quite hear. If anybody is having trouble hearing we do have
10 hearing assists. So if you want that let me know. And the
11 problem is, of course, you probably can't hear me. So if
12 anybody needs hearing assist and wants it, we can give you, and
13 I don't know even know what they call it, but an ability to get
14 the direct feed from the microphone. Just raise your hand and
15 we'll make sure you get it. All right. Go ahead, Mr. Roth.

16 MR. ROTH: Thank you, Your Honor. We call Special
17 Agent Timothy Hunt.

18 THE COURT: All right.

19 TIMOTHY JOHN HUNT, GOVERNMENT

20 having been first duly sworn, testified as follows:

21 (Witness sworn, 9:07 a.m.)

22 DIRECT EXAMINATION

23 BY MR. ROTH:

24 Q Good morning.

25 A Good morning.

1 Q Could I have you start by stating and spelling your
2 complete name?

3 A Certainly. My name is Timothy John Hunt. T-i-m-o-t-h-y,
4 J-o-h-n, H-u-n-t.

5 Q Thank you. Where are you employed?

6 A I am employed by the Bureau of Alcohol, Tobacco, Firearms
7 and Explosives here in Grand Rapids, Michigan.

8 Q In what capacity?

9 A I am a senior special agent as well as a certified
10 explosives specialist and bomb technician.

11 Q How long have you been employed by the ATF?

12 A I have been employed by the ATF since 2001.

13 Q Are people required under law to register destructive
14 devices with the ATF?

15 A They are.

16 Q Is that information stored in a data base with the ATF?

17 A Yes. It's called the National Firearms Registration and
18 Transfer Registry.

19 Q Did you check that database to see if two of the Defendants
20 in this case have ever registered destructive devices with the
21 ATF?

22 A I did. And I said registry, but the record is the National
23 Firearms Transfer and -- National Firearms Registration and
24 Transfer Record.

25 THE COURT: Sometimes the court reporter has harder

1 questions than the lawyers.

2 THE WITNESS: Sorry.

3 BY MR. ROTH:

4 Q Has Barry Gordon Croft, Sr., ever registered a destructive
5 device with the ATF?

6 A I found no record of registration for Mr. Croft.

7 Q Has Daniel Joseph Harris ever registered any destructive
8 devices with the ATF?

9 A I found no registration records for Mr. Croft or for
10 Mr. Harris.

11 MR. ROTH: Thank you. I have nothing else, Your
12 Honor.

13 THE COURT: Mr. Gibbons?

14 MR. GIBBONS: Nothing, Your Honor.

15 THE COURT: Ms. Kelly?

16 MS. KELLY: I have no questions, Your Honor.

17 THE COURT: Mr. Hills?

18 MR. HILLS: No, Your Honor.

19 THE COURT: Mr. Blanchard?

20 MR. BLANCHARD: Pass.

21 THE COURT: All right. You do have the record for the
22 shortest stay, so thank you.

23 (Witness excused, 9:08 a.m.)

24 THE COURT: We'll go to the government's next witness.

25 MR. ROTH: Thank you, Your Honor. We call Robert

1 Gillette.

2 ROBERT GILLETTE, GOVERNMENT

3 having been first duly sworn, testified as follows:

4 (Witness sworn, 9:09 a.m.)

5 DIRECT EXAMINATION

6 BY MR. ROTH:

7 Q Good morning.

8 A Good morning.

9 Q Could I have you start by stating and spelling your
10 complete name, please?

11 A My name is Robert, R-o-b-e-r-t, Gillette, G-i-l-l-e-t-t-e.

12 Q Thank you. Where are you employed?

13 A I am employed by the Federal Bureau of Investigation,
14 specifically at the laboratory divisions explosives unit.

15 Q And what is your title there?

16 A My job title is chemist forensic examiner.

17 Q What are your responsibilities in that position?

18 A My primary responsibilities include the examination of
19 evidence for the presence of explosives or the residues of
20 explosives as well as instruction on evidence collection for
21 explosives investigations, and I also manage the proficiency
22 testing within my unit.

23 Q How long have you worked at the FBI?

24 A I have worked for the FBI since 2012.

25 Q Have you held other positions there during that time?

1 A Yes. I was a chemist within the explosives unit from April
2 2012 until December of 2012 when I got my current position.

3 Q Thank you. And can you please briefly describe the
4 training that you received to work as a chemist at the FBI?

5 A To become a qualified chemist within the explosives unit I
6 underwent a training program that included instruction on the
7 different standing -- standard operating procedures that we
8 have as well as an amount of information concerning explosives
9 and explosives chemistry. And I also had to complete a number
10 of competency tests, one per standard procedure, to be
11 qualified as a chemist. And then after that, to become a
12 qualified chemistry -- chemist forensic examiner I had to
13 successfully complete multiple oral boards of examination as
14 well as moot courts to become a qualified chemist forensic
15 examiner.

16 Q Thank you. Were you provided with some of the remnants of
17 the explosion that were recovered by investigators at the
18 Luther site in this case?

19 A Yes. That would have been a submission out of the Detroit
20 field office to the laboratory division.

21 Q What items were you provided with?

22 A I believe the item numbers within the FBI laboratory were
23 items 3 and 4, and those would have been, if I remember
24 correctly, either pieces of paper or cardboard. I believe
25 there is also tape, foil and a rubber band as well.

1 Q What condition were they in?

2 A They were dry when I received them. They were -- they just
3 looked like bits and scraps of paper and cardboard and
4 miscellaneous material.

5 Q Did you attempt to analyze those items?

6 A I did analyze those items for explosives residues.

7 Q Are there environmental issues that can compromise or limit
8 your ability to do that analysis?

9 A There can be. Yes.

10 Q What are some examples?

11 A Some environmental examples could be simply just weathering
12 effects depending upon when the explosion happened, when the
13 evidence was collected, if it rained, how long it had been
14 exposed to different types of temperatures, other varying
15 weather that could potentially affect my ability to detect
16 residues on evidence.

17 Q So if those items were left outside between, let's say,
18 September and October, would that compromise your ability to
19 effectively do your analysis?

20 A That could compromise my ability. Yes.

21 Q In what way?

22 A It could either reduce the amount of residues that are
23 potentially on that evidence to a level that I can't detect it.
24 It could reduce it to -- could remove those residues
25 completely. It could. Yes.

1 Q All right. And in this case were you able to find any
2 evidence of explosive material in those small items you were
3 provided?

4 A From the items from the submission from the Detroit field
5 office I was unable to detect any explosives residue.

6 Q Were you also provided several items that were recovered
7 from Barry Croft's residence?

8 A Yes. That was a submission from the Baltimore field office
9 to the laboratory division.

10 MR. ROTH: Could we look at 439, please?

11 THE COURT: This one is in already?

12 MR. ROTH: I believe so, Your Honor. I'll double
13 check.

14 THE COURT: Yes. It is. Okay.

15 BY MR. ROTH:

16 Q Okay. Are these the items that you were provided?

17 A These appear to be some of the items that I was provided.

18 Q Are there additional items that you were provided?

19 A No. I just did not receive all of these.

20 Q Understood. So it's the opposite that you didn't receive
21 all of these items?

22 A Correct.

23 Q Which of these items did you receive for analysis?

24 A I believe it was the roll of green hobby fuse, the
25 container of exploding target, and one container of smokeless

1 powder.

2 Q What analysis did you perform on those items?

3 A I performed what would have been considered bulk
4 examinations. So these weren't the residues of explosives but
5 these were bulk intact material. So I examined all of those
6 that we specifically -- the techniques that I used fell under
7 either spectroscopy -- so that's you have an unknown, put an
8 amount of energy into that. The way that energy is changed
9 after interacting with that unknown can be indicative of either
10 the elements present within it or the bonds between the
11 elements and that allows us to identify it that way. I did
12 also use chromatographic techniques, chromatography, as a means
13 of separating out a mixture into its individual components to
14 ideally identify each individual component.

15 Q And through those processes you are examining these items
16 for whether or not there is any explosive material present?

17 A Correct. Either explosives or chemicals that could be used
18 to make explosives.

19 Q So with that in mind, what were your findings as to the
20 fuse?

21 A The core material that I removed from that green hobby fuse
22 was identified as the low explosive black powder.

23 Q What about the smokeless powder?

24 A The smokeless powder was or what appears to be smokeless
25 powder in an open container of smokeless powder I identified as

1 a rod shaped single base smokeless powder.

2 Q What does that mean?

3 A The rod shape is just the shape of the smokeless powder.
4 So depending upon the type of firearm it's used in that shape
5 will determine its burn rate. And then a single base smokeless
6 powder just means the energetic component in it is only
7 nitrocellulose, as opposed to a double base which also includes
8 nitroglycerin and a triple base which would also include
9 nitroquinoline.

10 Q Is that also an explosive material?

11 A Yes. All three of those are explosives.

12 Q And then the final item that you examined was the exploding
13 targets. What did you find with that item?

14 A So inside that item there was a white powder, which was
15 identified as the oxidizers ammonium perchlorate and ammonium
16 nitrate, and inside that container as well is a small ziplock
17 bag that had a green colored powder, which inside there was the
18 oxidizer potassium dichromate and sulfur and aluminum.

19 Q And did you find evidence of explosive material in that as
20 well?

21 A So in order -- so I'd have to take a step back and kind of
22 explain what explosives are. So an explosive, a chemical
23 explosive is either a single pure substance or a mixture of two
24 or more substances that when you put the proper energy into it
25 will explode. So that explosion is a chemical reaction, and

1 that chemical reaction is typically a rapid release of energy.
2 That's the explosion.

3 So in order to produce an explosive you need either --
4 you need a fuel and an oxidizer. So in a single pure substance
5 like nitrocellulose those are bound together molecularly on
6 that single molecule. For two or more mixtures -- for two or
7 more things to be mixed together you need those fuels and
8 oxidizers mixed intermittently so -- and at the right
9 proportion so that when you put the proper energy into it that
10 chemical reaction, that explosion happens. So in this
11 exploding target I identified both oxidizers and fuels. So it
12 wasn't -- in the state that I received it wasn't an explosive,
13 but if it would have been mixed properly and at the right
14 ratios it could potentially produce an explosive composition.

15 Q Did you notice anything else about the exploding target and
16 the cannister?

17 A I didn't recognize it. Not that I know every single
18 exploding target that's out there, but in that little ziplock
19 bag, within it it's usually from all the ones I have seen
20 either through my job or the literature it's usually only fuels
21 in there. But there was an oxidizer as well which was a little
22 bit disconcerting. Disconcerting because it makes it
23 relatively unsafe because you have an actual mixture of fuels
24 and oxidizers. And I tested what we call a thermal
25 susceptibility test, which is simply a burn test. Take a small

1 amount of it, introduce a flame into it, because that heat is
2 often times the energy you need to cause that explosion to
3 happen, and it burned sort of like a sparkler would have
4 burned. So it was technically an energetic composition within
5 it.

6 Q All right. So the surprising thing was that the two
7 materials that when combined would combust were kept in the
8 same container do I understand?

9 A Yeah. What's typically considered a fuel packet in
10 exploding targets. They are -- usually the way they are
11 marketed and sold they are separate and they are not explosives
12 until you mix them and then shoot them.

13 Q And did the -- you referred to the testing, and I apologize
14 I forget the name, where you burn a little bit of it?

15 A Technical term is a thermal susceptibility test or a burn
16 test.

17 Q The burn test. Did that perform any differently than you
18 would expect normal exploding targets to perform?

19 A Well, for what I anticipated it being simply a fuel, I
20 didn't expect it to have any reaction. But since there was a
21 small amount of an oxidizer mixed into it, it did react.

22 MR. ROTH: Very good. I have nothing else, Your
23 Honor. Thank you.

24 THE COURT: All right. Mr. Gibbons?

25 MR. GIBBONS: Again, this material I think is most

1 relevant to Mr. Croft. I would reserve and pass the witness.

2 THE COURT: All right. Go ahead, Ms. Kelly.

3 MS. KELLY: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MS. KELLY:

6 Q Good morning, sir.

7 A Good morning.

8 Q I want to talk and ask you a couple of questions of what
9 you were just talking about, and this is item 2-3-19, small
10 zipper lock bag of powder, is that correct?

11 A Yes.

12 Q Okay. That's the one that you thermal tested and there was
13 some reaction, is that right?

14 A That is correct.

15 Q Okay. Do you see that small zipper lock bag of powder in
16 this photograph?

17 A Not in this photograph. It's within that container.

18 Q It's within that container. Can you circle the container
19 that you are referring to on the screen?

20 A Is it a touch screen?

21 THE COURT: It should work if you touch it firmly
22 enough.

23 MS. KELLY: Thank you.

24 THE WITNESS: As I received that container it was
25 within it.

1 BY MS. KELLY:

2 Q Okay. So you receive a container and there is a small
3 zipper like a sandwich bag zipper bag in there?

4 A It's a very, very small zipper lock bag, yes.

5 Q And how much are we talking about that was in that --
6 within that bag within that container?

7 A I didn't -- I didn't weigh it, but I would have guessed
8 maybe an ounce at most.

9 Q Okay. And did you say you are not familiar with this brand
10 of exploding targets?

11 A Yes. That is correct. I had never seen this brand before.

12 Q Okay. And you would agree that these exploding targets are
13 commercially available, correct?

14 A Yes. They are.

15 Q Okay. As well as the smokeless powder that you received
16 and tested, is that correct?

17 A Yes. It is.

18 Q Okay. As well as the hobby fuse that you tested, is that
19 correct?

20 A Yes. It is.

21 Q The smokeless powders that you tested, you found those to
22 be low explosives, is that right?

23 A Yes. All smokeless powders are low explosives.

24 Q Can you explain what low explosives mean?

25 A So explosives are categorized based upon how they are

1 designed to be used. A low explosive is designed to deflagrate
2 and a high explosive is designed to detonate. A deflagration
3 and a detonation just defines the rate of that chemical
4 reaction, that explosion. So a deflagration means that rate is
5 proceeding through the explosive lower than the speed of sound,
6 and a detonation means that reaction is occurring through the
7 explosive at a rate greater than the speed of sound.

8 Q Okay. And so it was when you tested that smokeless powder
9 and the results came back that it was low explosives that was
10 what you were expecting to find, is that correct?

11 A Yes. I expected that low -- excuse me. What -- what's the
12 question? I apologize.

13 Q When you tested the smokeless powder, item 2.21, 2-1 in
14 your report, you were expecting it to come back with a low
15 explosive, is that correct?

16 A No. Not exactly. So the item that appeared to be a
17 smokeless powder within that open smokeless powder container,
18 it looked like a smokeless powder, so I used the smokeless
19 powder standard operating procedure. I identified it was a rod
20 shaped single based smokeless powder. So the fact that it is a
21 smokeless powder means it is a low explosive.

22 Q Got it. So what you were expecting to be in that container
23 was in that container, is that right? You were expecting to
24 find a smokeless powder in that container, is that right?

25 A No. When I receive a container and I open it up I don't

1 know what to expect, right? So that's why it's coming to me
2 because we don't know what it is. When the material I removed
3 from it based upon my education and my experience visually
4 appears to be a smokeless powder, then I'll treat it as a
5 smokeless powder. I don't identify it as a smokeless powder
6 until I complete all of my examinations.

7 Q And that's what you did, is that right?

8 A Correct.

9 Q Okay. So the smokeless powder is in the smokeless powder
10 container, correct?

11 A Correct.

12 Q Okay. Now, your findings regarding these items after your
13 testing have a lot of ifs and ares. So if the items in item
14 2-3, so the exploding targets, correct, are properly mixed with
15 a smokeless powder that we just talked about in the correct
16 proportions, then an explosive composition could be produced,
17 is that right? Do we have that right?

18 A No. With respect to the exploding target, so it's only
19 those oxidizers, the ammonium perchlorate and ammonium nitrate
20 mixed with that fuel packet. So the exploding target by itself
21 mixed with nothing else. If it's mixed together properly in
22 the right proportion it could produce an explosive composition.

23 Q Okay. So it has to be properly mixed, right?

24 A Correct.

25 Q Okay. At the right proportions, correct?

1 A Correct.

2 Q Then it could have an explosive composition, is that right?

3 A Then it could produce an explosive composition.

4 Q Okay. Now, with the other tests that you testified, you
5 received little bits of paper from the Detroit field office, is
6 that right?

7 A Yes. The submission from the Detroit field office included
8 what appeared to be paper, cardboard. I believe also foil and
9 rubber band.

10 Q Okay. And you didn't talk a whole lot about this, but what
11 sort of analysis did you conduct with those little pieces of
12 paper and cardboard?

13 A So my first analysis was actually visual examination,
14 looking at it to determine how to proceed with my examinations.

15 Q Okay. And then what was your next system?

16 A After that I performed a vacuum extraction. So it's as
17 simple as having a standard vacuum cleaner with a special
18 attachment on the end of it that has a small amount of -- a
19 small filter in it, filter paper, and I vacuumed the evidence
20 in an attempt to pull up any explosives residue, capture it on
21 that filter. So that filter was then cut in half and extracted
22 with water and the other half with acetone. And those extracts
23 were analyzed using two different chromatograph techniques.
24 Again, chromatography separates ideally a mixture into its
25 individual components and then ideally identifies each

1 component within that mixture.

2 Q And this is -- was there another set that you took after
3 that or was the testing complete at that point?

4 A So for the acetone extract I used gas chromatography with
5 electron capture detection. There was potential indication of
6 a high explosive nitroglycerin. So I had performed a
7 confirmatory technique using liquid chromatography with mass
8 spectrometric detection, and that did not detect nitroglycerin.
9 So the nitroglycerin was not present.

10 Q Okay. And so this is all standard operating procedures
11 that you follow, is that correct?

12 A Yes. That's correct.

13 Q Okay. And the results of that is that you were unable to
14 determine any explosives material, is that correct?

15 A That is correct. I did not detect any explosives residues.

16 MS. KELLY: Thank you. I have nothing further.

17 THE COURT: Mr. Hills?

18 MR. HILLS: Nothing, Your Honor. Thank you.

19 THE COURT: Mr. Blanchard?

20 MR. BLANCHARD: Thank you.

21 CROSS EXAMINATION

22 BY MR. BLANCHARD:

23 Q Good morning.

24 A Good morning.

25 Q So we saw yesterday an exhibit, little cardboard pieces, I

1 think maybe some tape. Is that what was sent to you to test?

2 A I can't say what you saw yesterday with respect to what I
3 received.

4 Q Okay. You received some small cardboard pieces and maybe
5 some tape, correct?

6 A The items that I received in the laboratory division from
7 the Detroit field office and examined were pieces of what
8 appeared to be paper, cardboard, foil and rubber band.

9 Q Okay. And you said you tested these using gas
10 chromatography initially, right?

11 A That was one of the techniques. Yes.

12 Q And then after that you used liquid chromatography with
13 mass spectrometry to verify, is that fair?

14 A Yes. I had an initial, through my initial screening an
15 indication of a potential presence of an explosive, and in
16 order to confirm that I had to use a second technique, that
17 liquid chromatographic technique, which did not detect the
18 nitroglycerin, so it was not present.

19 Q And so liquid chromatography is sort of the gold standard,
20 is that fair?

21 A I wouldn't say that. It really depends upon your analytes,
22 what you are analyzing and its amenabilities. So it's how well
23 it works with the specific instrument. So it depends upon what
24 you are analyzing what will be a gold standard or not.

25 Q For what you were doing here it was the appropriate test,

1 correct?

2 A For what I was doing using my standard operating procedure,
3 yes.

4 Q Okay. And you are confident in your analysis, true?

5 A I am. Yes.

6 Q Okay. Regarding -- Exhibit 439 up, please?

7 Regarding 439, we had some smokeless powder in two
8 different containers, right, is that correct?

9 A I see what appear to be smokeless powder containers. I
10 don't know what's in them.

11 Q Okay. And you did testing on these items, correct?

12 A I tested one -- I tested the contents of one open
13 container.

14 Q Right. And so you tested an open container that was
15 labeled smokeless powder, correct?

16 A That's correct.

17 Q And your findings led you to believe that the container of
18 smokeless powder was smokeless powder, correct?

19 A What I examined within that one container was a smokeless
20 powder. Yes.

21 Q To be clear, what you examined in the container that was
22 labeled smokeless powder was actually smokeless powder,
23 correct?

24 A Yes.

25 Q Okay. And then you examined what appeared to you to be

1 hobby fuse, correct?

2 A That is correct.

3 Q And your examination had you conclude that the hobby fuse
4 was hobby fuse, correct?

5 A No. That is not correct.

6 Q Your examination led you to believe that the core of what
7 appeared to be hobby fuse was black powder, is that right?

8 A Yes. The material that I removed from the core of that
9 hobby fuse I identified as black powder.

10 Q And that's what's normally in the core of hobby fuse,
11 correct?

12 A No. What's normally in the core of hobby fuse is a low
13 explosive. It doesn't have to always be black powder.

14 Q Okay. But commonly is, right? You have seen hobby fuse
15 with black powder core before, right?

16 A Yes. I have.

17 Q Okay. And then you also examined what was in that -- you
18 also examined what was within the exploding target container,
19 correct?

20 A Yes. I did.

21 Q And you've talked about other exploding targets that you
22 have encountered before, correct?

23 A Yes.

24 Q The most commonly known one is Tannerite, correct?

25 A Yes. I believe so.

1 Q And these are meant -- they are marketed as something that
2 you take out on a gun range and shoot at, right?

3 A Yes. They are marketed to be mixed and shot to explode.

4 Q And so you shoot at them with a rifle, and if you hit it
5 you get a little explosion, right?

6 A Yes. That's how they are designed to be used.

7 Q And as far as you know they are legal, correct?

8 A As far as I am aware, yes.

9 Q You can buy them at Walmart, right?

10 A I am not certain that you can buy them from Walmart.

11 Q Okay. And smokeless powder, as far as you know, it's legal
12 to possess, correct?

13 A Right. I don't know the state laws or regulations, but my
14 understanding is you can purchase them.

15 Q Okay. Maybe at Walmart?

16 A It's possible.

17 Q Okay. And hobby fuse, as far as you know, it's legal to
18 possess, right?

19 A I can't say what the legal -- you know, in terms of
20 legality to possess it, but I believe it is.

21 Q And then I just want to go back for one moment to the
22 exploding target that you said you've never seen this brand
23 before, right?

24 A That specific brand, no.

25 Q And so you did what you called a heat susceptibility test,

1 right?

2 A A thermal susceptibility test on one portion of it. Yes.

3 Q And that's where you tried to burn it?

4 A Yeah. Simply stated. Yes.

5 Q Yeah. And when you tried to burn it it burned like a
6 sparkler?

7 A That small portion. Yes. It did.

8 MR. BLANCHARD: I'll pass the witness.

9 THE COURT: All right. Mr. Gibbons?

10 MR. GIBBONS: I have no further questions, Your Honor.

11 THE COURT: Any redirect?

12 MR. ROTH: No, Your Honor. Thank you.

13 THE COURT: All right. Thank you. You may be
14 excused.

15 (Witness excused, 9:35 a.m.)

16 THE COURT: All right. We will go to the government
17 for your next witness.

18 MR. ROTH: Thank you, Your Honor. We call Kelly Van
19 Arsdale.

20 KELLY VAN ARSDALE, GOVERNMENT

21 having been first duly sworn, testified as follows:

22 (Witness sworn, 9:35 a.m.)

23 THE COURT: Get situated, and once you are set up
24 there we'll turn it over to Mr. Roth for direct.

25 MR. ROTH: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. ROTH:

Q Good morning.

A Good morning.

Q Could I have you start by stating and spelling your complete name?

A Kelly Van Arnsdale. K-e-l-l-y. Last name is V-a-n A-r-s-d-a-l-e.

Q Thank you. Where are you employed?

A I am employed at the FBI laboratory in Quantico, Virginia, in the explosives unit.

Q What's your title there?

A I am a supervisory special agent, explosives and hazardous device examiner.

Q What are your responsibilities in that position?

A As a device examiner in the unit I am responsible for any sort of explosive device, hooks device, anything bomb related that is submitted as forensic evidence coming into the laboratory. Making sure that it's safe. Inventoring that evidence, accounting for everything, taking pictures, notes, and making a determination as to whether or not I have the components of an IED, an improvised explosive device, or a bomb, and whether or not it is a destructive device as well. I am a certified special agent bomb technician. So I am responsible for render safe operations as well. So I am a

1 field responding personnel, go out to crime scenes, assist on
2 crime scenes with the collection of evidence and then bring
3 that back to the lab to analyze.

4 Q Thank you. How long have you worked at the FBI?

5 A I have been with the FBI for a little over 24 years now.

6 Q Have you had prior assignments or positions within the FBI
7 during that time?

8 A Yes. I have. In the late 1990s I was in the trace
9 evidence unit at the FBI lab. That unit analyzes hairs and
10 fibers. I was a physical signs technician at the time. And
11 then in 1999 I moved over to the explosives unit, held that
12 same type of position, the physical science technician
13 position. We were responsible for receiving all the evidence,
14 inventoring it, photoing it, note taking, transferring it
15 around to the different units at the laboratory for the
16 different exams like latents or documents or DNA, and then it
17 would come back to our unit where I would compare notes for a
18 qualified examiner in the unit.

19 Once I completed that I moved onto new agents class.
20 I accepted a position at the FBI academy and became an FBI
21 agent. Was there for about 17 years, and was assigned to the
22 FBI's Washington field office in Washington D.C. I was at the
23 Washington field office for about 10 years. I was assigned to
24 the Amerithrax task force, and then a health care fraud squad
25 where I worked drug diversion cases. I was a member of the

1 hazmat team as well as a bomb tech when I was out in the field.

2 In 2013 I came back down to the FBI laboratories
3 explosives unit and became certified as an explosive and
4 hazardous device examiner, which is what I currently am in that
5 position right now.

6 Q Could you please briefly describe the training that you
7 received for that position?

8 A So I am a certified bomb technician, which means I go
9 through Redstone Arsenal, Huntsville, Alabama, where all the
10 other state and -- I attended the hazardous devices school in
11 Redstone Arsenal in Huntsville, Alabama. That's where I became
12 certified as a bomb technician, much like the state and local
13 bomb technicians go through the same training.

14 Once I completed that I came back to the field and did
15 my time as a field. In order to become an explosive and
16 hazardous device examiner at the FBI laboratory we have a
17 regimented training program where I have to undergo working
18 with qualified examiners on case work, receiving evidence,
19 inventoring evidence, taking notes on it and making
20 determinations as to whether or not I have the components of an
21 IED. That training consists of moot courts where we have cases
22 that we are presented with that we work from start to finish
23 and we present our findings in a courtroom type setting. We
24 have oral boards, which consists of explosive oral boards as
25 well as administrative oral boards for the laboratory's quality

1 assurance system, and we also are required to complete certain
2 range operations and administrative duties while we are in that
3 training program.

4 Q Thank you. Did investigators in this case ask you to
5 examine several of the items that they recovered from Barry
6 Croft's residence?

7 A Yes. They did.

8 Q Could we take a look at 439, please?

9 Are these those items?

10 A Yes, sir. They are.

11 Q All right. I want to talk about what some of these items
12 are. Which ones are smokeless powder?

13 A So in the middle of the screen up at the top there are
14 three black containers. Those three are containers of
15 smokeless powder. Below there are two containers that are
16 black with orange labels. Those were also labeled smokeless
17 powder.

18 Q Different brands but both smokeless powder?

19 A That is correct. Yes.

20 Q And what is smokeless powder?

21 A Smokeless powder is a low explosive. It's a commercially
22 available product. It's designed to burn. So if I were to lay
23 it out flat, light it with a match it would burn, but it's a
24 rapid burn. It's called a deflagration. That low explosive
25 can be confined and in that case it could actually explode.

1 Q What does the phrase low explosive mean?

2 A Explosives are categorized based on what they are sensitive
3 to and how they are initiated. So there is high explosives.
4 There is low explosives. Low explosives are initiated with a
5 little bit of heat, little bit of shock, little bit of
6 sensitivity, and you can initiate that low explosive powder.
7 The difference is the rate at which that reaction occurs once
8 that material is initiated. So a low explosive is designed to
9 burn. It's designed to deflagrate through the material.
10 Technically they say a speed -- at a speed slower than the
11 speed of sound through that material.

12 If we are talking about high explosives, those are
13 traditionally the materials like we see in the movies that
14 explode, and those are the materials that detonate. They just
15 require a bit of a shock impetus or a little bit of input in
16 order for them to detonate.

17 Q You have used the term IED a few times. Could you please
18 tell the jury what that means?

19 A Absolutely. IED stands for improvised explosive device.
20 An improvised explosive device is a nonmilitary, noncommercial
21 explosive device designed by the bomber with available
22 knowledge and materials.

23 Q Noncommercial, what does that mean?

24 A It means it's something that you can't just pull off the
25 shelf. It's something that's constructed with materials that

1 you can purchase, but it has to be assembled by somebody to
2 make an improvised explosive device. An improvised explosive
3 device is also commonly referred to as a homemade bomb.

4 Q Can IEDs be built from everyday items available legally to
5 be purchased in America?

6 A Yes. Absolutely.

7 Q Can you give us some examples?

8 A So for example a pipe bomb. If you go to a Home Depot or
9 Lowe's you can purchase a pipe nipple that's got the threading
10 on the ends. You can purchase the end caps. Both of those
11 items can be purchased legally. If I go to Cabella's, if I go
12 to any of the other sporting good stores, even if I go to
13 Walmart, I can purchase containers of smokeless powder. Often
14 purchased by people that like to reload their own ammunition.

15 So again, I can purchase that totally legally. Most
16 of the time it's without any sort of proof of identification or
17 anything like that. It's honestly easier to purchase that than
18 it is to purchase Sudafed over-the-counter at a pharmacy. And
19 then if you want to put any other components on it, such as
20 tape or any sort of fragmentation, I can buy BBs. I can buy
21 nails. I can buy screws. All of that is perfectly legal. So
22 there is nothing that I actually have to go through any sort of
23 process to acquire when I am making a homemade bomb.

24 Q And the example that you gave of a homemade pipe bomb, you
25 referenced smokeless powder. That would be the explosive put

1 in there?

2 A Yes, sir. So when we talk about a homemade bomb we talk
3 about three components that make up an IED. You've got an
4 explosive main charge. So that's the filler that's inside.
5 You've got typically a container that that is put inside, and
6 that container is used either for confinement of the material
7 inside or for concealment purposes. And then you've got some
8 sort of a fusing system, something that is going to be used to
9 set that material off that's inside that material container.

10 Q The components that we are looking at here in 439 that were
11 recovered from Barry Croft's home, could those components be
12 used to make an IED?

13 A Absolutely they could.

14 Q Could you please describe for the jury what that would look
15 like?

16 A So as we discussed, an IED consists of an explosive main
17 charge, a fusing system, and sometimes a concealment or a
18 confinement container. In this particular case the explosive
19 main charge, if you look at the photograph, there were the five
20 containers of smokeless powder. That would be considered
21 material that could be used as an explosive main charge inside
22 a particular device, a fusing system. Over on the right-hand
23 side of the screen there is a roll of green colored fuse that's
24 got two pieces of yellow tape on it. That's called hobby fuse.
25 Hobby fuse is an externally burning piece of fuse. It kind of

1 looks like a shoelace, only thinner. You light it at one end
2 and it burns down at a set rate until it reaches the other end
3 of the fuse, and the other end it spits out a little bit of
4 flame. Typically that other end where that flame spits out,
5 that's what's embedded inside the low explosive or the
6 explosive material to set that material off. Remember that we
7 talked about low explosives, that they are designed to burn.
8 With that little bit of impetus from that heat from that flame
9 source from the fuse, it would initiate that smokeless powder
10 or whatever that powder was that was in that material.

11 When we are talking about containers, low explosives
12 require some sort of a confinement container in order to
13 explode. In this particular case down at the lower kind of
14 center of the screen there were five travel size containers,
15 and those were plastic containers that the material could be
16 put inside, and once that material is put inside you could just
17 put a hole in the top of the container, in the side of the
18 container, insert the fuse and you could make an IED out of
19 those materials very easily.

20 In addition to that you see there is a container of
21 BBs and it's in the upper left-hand corner of the screen
22 referred to as ball bearings or medical -- sorry. Metal
23 spheres. These are a typical example of some sort of a
24 fragmentation that can be used in an improvised explosive
25 device. Fragmentation is often added to an explosive device to

1 enhance the effects when the explosion occurs. So you not only
2 have the pressure, the effects of the explosion going off, but
3 you also have all this fragmentation going out with that
4 pressure wave as well. So ball bearings, nails, shards of
5 glass, screws, all those types of materials can be affixed to
6 the outside or inside of a container and used as added
7 fragmentation to cause additional personal injury and/or death
8 or damage to the property surrounding.

9 Q That fragmentation could be called shrapnel?

10 A Yes, sir. It can.

11 Q All right. You talked about how it increases the effect of
12 the explosion, and you touched on it, but I just want to focus
13 on that for a moment. What part of the effect does it
14 increase?

15 A So when an explosion occurs you've got a thermal effect
16 that stays fairly close in to where the initial explosion
17 occurs. Then you've got a pressure, pressure wave that's
18 generated. This pressure from the explosion kind of pushes out
19 and creates almost like a wall coming towards whatever it's
20 affecting. So this pressure wave pushes out what are the
21 effects of the explosion. When that pressure wave pushes out,
22 that fragmentation, whether it's ball bearings, screws, nails,
23 whatever that fragmentation is, it gets pushed out along with
24 that pressure wave. So that fragmentation not only hits you
25 with the effect of that pressure, but it also will penetrate

1 anything that it hits or you know, hit anything that it runs
2 into. So it causes additional property damage, can cause
3 additional injuries, can cause death because of that velocity
4 that those objects are being propelled out at.

5 Q You mentioned that the fragmentation could be inside the
6 container or outside. If it's on the outside what are some
7 ways that it could be affixed?

8 A So most commonly we see fragmentation added to a device
9 either with hot glue, tape. That tape can either be masking
10 tape, duck tape, electrical tape. Those are what we most
11 commonly see to affix the fragmentation to the outside of the
12 device.

13 Q And were you provided tape that was found in Barry Croft's
14 kit here?

15 A I was provided with electrical tape as well.

16 Q Was there also some duck tape?

17 A There is. Yes, sir.

18 Q Both of those would be sufficient ways to attach
19 fragmentation to the outside of an IED?

20 A Yes. Both of those could be used to attach that
21 fragmentation.

22 Q For purposes of a reconstruction, were you provided with a
23 description of an IED and its components that were detonated at
24 the Luther FTX site on September 13th, 2020?

25 A Yes, sir. I was.

1 Q And what was that description?

2 MR. BLANCHARD: I'd object as to hearsay and
3 foundation.

4 THE COURT: Well, what's the concern?

5 MR. BLANCHARD: I don't know where -- we haven't had
6 testimony about what specifically was from anyone who knew what
7 happened at Luther.

8 THE COURT: You want to refresh the foundation? I
9 think it goes back quite a ways in the case. Right.

10 MR. ROTH: That's certainly true, Your Honor. An
11 agent early on testified --

12 THE COURT: Maybe you want to cover one of our first
13 agents.

14 MR. ROTH: I think it was the third or second, but
15 very early on testified to an interview that he did with the
16 Defendant, and in that interview he described the process of
17 the way in which he affixed pennies to a modified firework.

18 THE COURT: All right. Yeah. I think there is
19 sufficient foundation for the witness to answer. If you want
20 to lay any further you can do that.

21 MR. ROTH: Thank you, Your Honor.

22 BY MR. ROTH:

23 Q I can't exactly remember where we left off, so could you
24 please tell the jury what description you were provided of that
25 IED or excuse me of that item for reconstruction?

1 A Absolutely. So when evidence comes into the laboratory, we
2 received an incoming communication, something that kind of
3 provides us with some details or information about the case.
4 In the electronic communication that we received in this case
5 with the items that were received, we received information
6 stating that there was a device that was hung from a tree. It
7 consisted of a tube that was approximately one inch by four
8 inch, had pennies attached to it, and then it detailed the
9 listing of evidence that was being submitted for examination.

10 Q Did that include some of the remnants of the detonation
11 from that Luther FTX site?

12 A Yes. It did contain remnants from the explosion that
13 occurred.

14 Q And were those consistent with the description of the IED
15 that you were provided?

16 A Yes. It was.

17 Q You mentioned earlier that one of your responsibilities
18 deals with classifying destructive devices. What is a
19 destructive device?

20 A So a destructive device is an improvised explosive device
21 or an incendiary device that's designed or characterized with
22 components consistent with weaponization of that device.

23 Q And if something is a destructive device it's then within
24 the ATF purview of registration?

25 A Yes. That's ATF's responsibility to register that device.

1 Q The description that you were provided of the IED, the
2 modified firework with pennies, was this a destructive device?

3 A Yes. It was.

4 Q Why?

5 A So the pieces of the device that I received, I received
6 pieces of cardboard that were visually consistent with a mortar
7 type shell, mortar 2. In addition to that I received pennies
8 that had electrical tape on it, and that electrical tape, penny
9 and cardboard combination, those were all in some pieces
10 attached together, and so when an explosion occurred those
11 items were forced away from that cardboard tube all attached
12 together. So I had evidence in front of me that showed that I
13 had a cardboard tube with electrical tape and pennies that were
14 at one time altogether. In addition, I received little
15 fragments of silver colored paper that were visually consistent
16 with the wrappings of a mortar type shell.

17 Q Were you able to obtain the items necessary to reconstruct
18 that IED?

19 A Yes. I was.

20 Q All right. Have you reviewed Proposed Exhibit 261, the
21 picture of the firework that you used in your reconstruction?

22 A Yes, sir. I did.

23 Q All right. Is that a fair and accurate picture of that
24 firework?

25 A I don't have it up in front of me but what I reviewed is

1 accurate. Yes.

2 Q Just to be clear, we can show just the witness 261, please.

3 A Yep. That is an accurate picture.

4 MR. ROTH: Your Honor, I move for the admission of
5 Proposed Exhibit 261?

6 THE COURT: Any objections?

7 MR. BLANCHARD: No.

8 THE COURT: Hearing none it's admitted.

9 MR. ROTH: Thank you, Your Honor.

10 BY MR. ROTH:

11 Q So first of all, what is this item?

12 A It is a commercial mortar tube and mortar round set
13 consisting of a tube and 24 mortar shells inside.

14 Q What brand?

15 A It's Commander in Chief.

16 Q And like the Judge says, this is going to take us way back
17 in the trial, but who provided you with this firework?

18 A Special Agent Kristopher Long.

19 Q You describe this as a mortar style firework. What is a
20 mortar style firework?

21 A A mortar style firework is commercially available. It's
22 typically sold in a set where there is some sort of a tube with
23 a mounting base, and then it's sold with individual mortar
24 shells that you can drop down inside the tube. You would light
25 something similar to what we described before as hobby fuse.

1 So you would light the fuse on the outside that would burn
2 down, and the shell that was inside the tube would build up
3 gasses and pressures inside the tube and then launch outward
4 from the tube into the air for a visual or audio effect.

5 Q Can a mortar be converted into an improvised explosive
6 device?

7 A Yes. A mortar shell can be converted.

8 Q Can you please explain the process of doing that?

9 A So in the beginning of my conversation we talked about an
10 IED. We talked about an IED being an explosive material
11 container and a fuse. So that mortar shell is consistent with
12 that sort of terminology. You've got a cardboard tube that has
13 explosive material inside, and it's got a piece of fuse hanging
14 out. As it is -- by itself it is a commercial pyrotechnic.
15 However, when you modify it, when you start adding something
16 like fragmentation to it with tape, glue, any sort of
17 modification to that to weaponize that, and then it becomes an
18 improvised explosive device and a destructive device.

19 Q When you did your reconstruction, did you affix
20 fragmentation like pennies or BBs or anything else to it?

21 A No. I didn't.

22 Q Why not?

23 A So I was provided some information regarding the device.
24 However, I didn't know how many pennies. I didn't know where
25 those pennies were affixed. So I thought in order to best

1 demonstrate the effects of what an IED consisting of a mortar
2 round could do I demonstrated the effects of solely the mortar
3 round out on the range so we could see the type of
4 fragmentation and pressure effects that that generated.

5 Q Did you videotape that detonation?

6 A So the FBI laboratory has an operational projects unit that
7 is responsible for photographing and videotaping any sort of
8 demonstrative evidence that we need either for court or for
9 other purposes. I had them out at the range when we did the
10 demonstration to do the video and the photography.

11 Q And have you reviewed 446.1 and 446.2, the videos of that
12 reconstruction?

13 A Yes. I have.

14 Q And 447 and 448, pictures taken during that reconstruction?

15 A Yes, sir. I have.

16 MR. ROTH: Your Honor I'd move for the admission of
17 Proposed Exhibits 446.1, 446.2, 447 and 448?

18 THE COURT: All right. Objections? Hearing none.
19 They are admitted.

20 MR. ROTH: Thank you, Your Honor.

21 BY MR. ROTH:

22 Q Could we take a look at 447, please?

23 What do we see here?

24 A So we've got one of those mortar shells or mortar rounds
25 that we discussed. There is a piece of fuse that's underneath

1 the tape that's taped down along the side of that mortar shell.
2 When that fuse is brought down underneath it we attached a wire
3 to it so we could remotely initiate it versus me sticking a
4 match to the end of that hobby fuse and the hobby fuse starting
5 to burn. We had an additional wire attached to it so we could
6 do it from further away to remotely initiate that fuse.

7 Q Why?

8 A So that we didn't have to be close to the device if the
9 device were to go off.

10 Q All right. So even with a normal modified firework without
11 anything attached, still dangerous?

12 A It is. Yes.

13 Q Very good. Go ahead.

14 A So what you see there, behind it, is a cardboard silhouette
15 target. It was placed about two feet away from that mortar
16 shell. And again, there were no modifications to that mortar
17 shell other than the fact that I removed the lift charge. When
18 we talk about a mortar shell you've got some explosive filler
19 on the inside, but there is also some other material, explosive
20 as well, that's down towards the bottom of that that's designed
21 to help produce more gasses to lift that out of the mortar tube
22 when it explodes. I removed that so that mortar would stay
23 instead of launching into the air so that it would stay closer
24 to in front of the target when the effects occurred.

25 Q And why did you hang it as opposed to putting it on a

1 surface?

2 A So when we demonstrate explosive effects, obviously that
3 pressure wave goes out in almost like a 360-degree direction.
4 So it's going to pick up anything, be kind of disformed by
5 anything that it's up against. So typically when we do our
6 demonstrations we want to get the full effect of the mortar
7 shell or anything else that we are hanging out there so that it
8 has the opportunity to expand out in that 360 degree radius so
9 we can see the full effects of the device.

10 Q And did you take the video or somebody else take the video
11 at two different speeds?

12 A So the operational projects unit is capable of doing high
13 speed video as well as regular video and they did both for this
14 particular demonstration.

15 Q So let's start with the regular one. Could we please play
16 446.2?

17 (Video started, 9:59 a.m.)

18 (Video stopped, 9:59 a.m.)

19 MR. ROTH: You still don't have sound?

20 (Video started, 10:00 a.m.)

21 (Video stopped, 10:00 a.m.)

22 BY MR. ROTH:

23 Q All right. Could we take a look at 446.1, the slower
24 version. I apologize it's still running. And 446.1, please.

25 (Video started, 10:00 a.m.)

1 (Video stopped, 10:00 a.m.)

2 BY MR. ROTH:

3 Q Thank you. Could we look at 448, please?

4 You mentioned this earlier but about how far away was
5 the target silhouette from the mortar when it was detonated?

6 A The silhouette target was approximately two feet away from
7 the hanging device.

8 Q And even without shrapnel or fragmentation attached, what
9 effect did the mortar have on the silhouette?

10 A When the pressure went out from the explosion you have --
11 sometimes have unconsumed material.

12 Q Go ahead. Unconsumed material?

13 A Or material itself. It picks up fragmentation from
14 sometimes the ground or area around it. It forced all of that
15 pressure and all of that material outwards towards the target
16 in all other directions. The effect that it had on the target
17 you can see that it impacted the target as well as penetrated
18 the target. And that was just the mortar shell alone without
19 anything attached to the outside of it.

20 Q And if there had been fragmentation, if there had been
21 pennies on that IED, what effect would it have?

22 A So typically additional fragmentation you are going to get
23 that going out with the explosion as well. So most likely you
24 would see additional penetration when we do experiments as a
25 bomb tech. And doing experiments for cases that I've worked

1 it's been my experience that that fragmentation ends up going
2 out to the target and beyond and through the target because of
3 the types of material that are attached. So if there is
4 something that's got heavier weight to the metals and something
5 like that versus the cardboard, you are going to end up getting
6 additional penetration most likely through anything that's
7 around it.

8 MR. ROTH: Thank you, Your Honor. Nothing further.

9 THE COURT: All right. So what we'll do is take our
10 morning break now before going to cross and then you can get a
11 chance to work with your own tech to see if you can get your
12 sound working. And if Brad is listening, our miracle worker on
13 tech can maybe help with that as well, and if you get it reset
14 you can play it as you intended it and then we'd go to cross.
15 So 20 minutes and we'll be back.

16 LAW CLERK: All rise.

17 (Jury out, 10:03 a.m.)

18 THE COURT: Okay. 20 minutes.

19 LAW CLERK: Court is in recess.

20 (Recess taken, 10:03 a.m.)

21 (Resume Proceeding, 10:28 a.m.)

22 LAW CLERK: All rise, please.

23 (Jury in, 10:28 a.m.)

24 LAW CLERK: Court is in session.

25 THE COURT: Welcome back. Before the break we were

1 getting to the end of the government's direct exam. Brad did
2 come in and work his magic, so my understanding is we have not
3 only video but audio working. Do you want to address those
4 last couple of exhibits that didn't have the audio?

5 MR. ROTH: I think the easiest thing is just to play
6 Exhibit 446.2, Your Honor.

7 THE COURT: All right. Very good.

8 (Video started, 10:29 a.m.)

9 (Video stopped, 10:29 a.m.)

10 (Video started, 10:30 a.m.)

11 (Video stopped, 10:30 a.m.)

12 MR. ROTH: Thank you, Your Honor.

13 THE COURT: All right. Then we'll go to cross
14 starting with Mr. Gibbons.

15 MR. GIBBONS: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. GIBBONS:

18 Q Good morning, ma'am.

19 A Good morning, sir.

20 Q I just want to confirm, the video we just saw, was that an
21 attempt to replicate what could have been put together at this
22 Luther FTX?

23 A The demonstration that you just saw was a mortar round next
24 to a cardboard target.

25 Q Correct. And was the intention to replicate what may have

1 occurred in Luther, Michigan on September 12 or 13?

2 A The information that was provided me with the additional
3 materials I did not add to the mortar shell because I was not
4 sure how many or how it was affixed to the mortar shell. So my
5 demonstration was of the mortar shell by itself without any
6 additional items.

7 Q Okay. So it was not an attempt to replicate what had
8 occurred at Luther, Michigan, is that correct?

9 A It was to demonstrate the effects of a mortar shell.

10 Q Okay. Let me ask you this question. The mortar shell, I
11 think you said it was a commercial firework?

12 A Yes, sir. So mortar tubes and mortar shells are sold as
13 commercially available sets.

14 Q Okay.

15 A They are sold as pyrotechnics. However, when they become
16 modified in any sort of way, that's when they go from being a
17 commercial pyrotechnic to an IED.

18 Q All right. And by commercial you mean that they are
19 readily available in the marketplace?

20 A They are readily available to the common public. Yes, sir.

21 Q And that would be purchased by consumers, correct?

22 A Yes, sir. It would be.

23 Q And would it also be fair to call these consumer grade
24 fireworks?

25 A I haven't referred to them or heard them referred to as

1 consumer grade but commercial fireworks is typically what we
2 call them.

3 Q Okay. And like the fireworks that you use to make this
4 demonstration, they were purchased at a store, correct?

5 A I don't know where they were purchased. They were provided
6 to me by Special Agent bomb tech Kristopher Long.

7 Q And were they entitled something like Master and Commander
8 or Commander in Chief?

9 A The title on the mortar set that I used was Commander and
10 Chief.

11 Q And that's probably a reference maybe to the president?

12 A I don't know, sir.

13 Q 4th of July?

14 A I don't know, sir.

15 Q Okay. When you detonated the firework in the video, did
16 purple or green smoke appear there to you?

17 A I don't recall what color smoke came off of it, sir.

18 Q Let me ask you this question. Does smokeless powder --
19 that can burn, correct?

20 A Smokeless powder is a low explosive powder that's designed
21 to burn. However, when confined that's when you get that
22 explosive effect.

23 Q Right. And when it burns it makes smoke, true?

24 A It does make smoke. Yes, sir.

25 Q Is that smoke purple or green generally, do you know?

1 A No. Typically the smoke that comes off of smokeless powder
2 is kind of a grayish color. However, with pyrotechnics they
3 can add effects so you get the sparkles and the stars and the
4 color and that sort of thing.

5 Q Okay. With regard to the recreation that you were involved
6 in here with the firework that we just saw in the video, you
7 would agree that there wasn't anything preventing you from
8 taping a half dozen pennies to it, correct?

9 A No. There was nothing preventing me from doing so.

10 Q And you would agree that you could have done a series of
11 tests, true, so you could have had three pennies, six pennies,
12 12 pennies, correct?

13 A I could have. However, because I didn't know that
14 information -- I knew that pennies had been adhered to the
15 device that was recovered and provided to me, but I didn't know
16 how many or even in what configuration, how much tape or
17 anything. So to demonstrate the effects of the mortar by
18 itself without adding that additional fragmentation I decided
19 that it was best to demonstrate it with just the mortar shell.

20 Q Right. And I think the point is, is you wanted to make
21 sure that you knew what you were replicating that you had a
22 basis in fact for it, correct?

23 A I don't think that's true, sir. In my experience as a bomb
24 tech I have blown up a number of different things with
25 fragmentation attached to it. When we try to demonstrate what

1 may or may not have happened in a particular case we try to
2 take into account the facts that we know. So in this
3 particular case, because I didn't know how many pennies, I
4 didn't know if it was underneath, on the side, in order to
5 demonstrate the effect of that pressure wave coming off of the
6 explosion I thought it was best to just demonstrate what I
7 knew.

8 Q Right. And avoid speculation, correct? That is the enemy
9 of science I suppose?

10 A I was just demonstrating what I knew, sir.

11 MR. GIBBONS: Thank you. I have no further questions,
12 Your Honor.

13 THE COURT: All right. Ms. Kelly.

14 CROSS EXAMINATION

15 BY MS. KELLY:

16 Q Good morning, ma'am.

17 A Good morning. How are you?

18 Q Fine. Thank you. How are you?

19 A Good. Thank you.

20 Q I believe that you testified that you were provided
21 information that included there was a device hanging from a
22 tree. It was a tube and pennies were attached, is that
23 correct?

24 A That is correct, ma'am.

25 Q Okay. And I also thought I heard you say that in your test

1 you were hanging it to see the full effects, is that right?

2 A Yes, ma'am.

3 Q Okay. So the fact that you were told that it was hanging
4 from a tree, you would have still hung it up either way, is
5 that right, in your test?

6 A Correct. When we do our test at a range we've got a
7 demolition range that's clear of trees, clear of grass as much
8 as possible to avoid any of that additional fragmentation from
9 occurring. So the safest way for us to demonstrate an
10 explosive effect is to hang it from a line so that we can see
11 the effects in all directions.

12 Q Okay. And so you were not provided information that the
13 firework in Luther was actually was -- it was set off on the
14 ground, is that true?

15 A I was not provided that information.

16 Q Okay. And you also testified that you removed the lift
17 charge before you did your test?

18 A Yes, ma'am. I did.

19 Q Okay. You weren't provided that information that the lift
20 charge was removed, is that correct?

21 A I don't recall if -- I was provided some information from
22 some of the 302s that were written by some of the agents as
23 well. I don't recall if that was in there. It was discussed I
24 believe that it had stayed on the ground or close to the
25 ground. And so in order for something like that to do that,

1 removing the lift charge would allow that device to maintain
2 its proximity closer to the ground.

3 Q Okay. And just so I understand it correctly, so if an
4 artillery shell is on the ground, it's not going to move --
5 it's not going to go up, is that right, if it's not in that
6 mortar tube?

7 A That's not correct.

8 Q Okay.

9 A When a mortar shell is placed on the ground you are still
10 going to get those effects that come of 360 degrees. However,
11 it will not probably launch like it was designed to in the tube
12 further up into the air because there is not as much gas that
13 gets built up underneath it to push it up into the air. So I
14 am not saying it wouldn't launch into the air. I think even in
15 the video you saw it go up a bit and you saw obviously the
16 smoke up above that. It wasn't going to prevent it from going
17 off. It just was going to allow us to capture more of the
18 effects on the video and closer in where it occurred.

19 Q Okay. So by you removing that lift charge was -- was in
20 some way demonstrating how it would go off if it had the lift
21 charge on the ground? Am I understanding that correctly?

22 A I mean, you can secure an item that's got a lift charge, I
23 presume, and try to prevent it from going off. You know, for
24 us it was removing a lift charge which actually removed some of
25 the explosive material that was in there. So that wasn't even

1 the full mortar shell with that material removed.

2 Q Okay. So the point is, you removed something and it was
3 different than what the information you had from the 302
4 reports, is that correct?

5 A Like I mentioned, I believe somewhere in those 302s there
6 was mention of removal of something from the bottom of it, but
7 I don't recall specifically.

8 Q And you have made mention of artillery shell, the tube.
9 Are we talking about the same thing, the artillery shell in a
10 tube?

11 A Artillery is typically more of a military type term. So a
12 commercial mortar shell or mortar round is more appropriate for
13 a pyrotechnic type device.

14 Q Can you tell me what pyrotechnic means?

15 A Pyrotechnic is kind of a fancy word for fireworks.

16 Q Okay. And this shell that you tested, it was approximately
17 four and-a-half inches in length by one and-a-half inch width,
18 is that right?

19 A That sounds about right. I believe it was one by four.

20 Q One by four. Okay. For the jury, can you estimate your
21 best estimate of the size of it with your -- with your hands?

22 A The one that I tested?

23 Q Correct.

24 A The one that I tested was probably approximately this long.

25 Q And that was the one by four; is that approximately one by

1 four?

2 A Yeah. That's -- that's the four. You know, the one is
3 approximately that diameter.

4 Q Sorry. So I can see it, too?

5 A Approximately like that diameter.

6 Q Okay. Thank you.

7 You talked about with IEDs and changing commercial
8 product into an IED when it's made to weaponize something. Do
9 you remember talking about that?

10 A I do.

11 Q So that's the important piece is weaponizing it, is that
12 correct?

13 A So any time you take something, you know, a commercial
14 object or something like that, something from home and you
15 create those components of an IED, you have got the explosive
16 main charges. You have got a fusing system. You've got a
17 container. If you compile all those components, whether you
18 purchase them, make them, find them, if you assemble them so
19 that you've got that main charge fusing system in a container
20 you have an IED.

21 Q And --

22 A And an IED can be without fragmentation.

23 Q Okay. And you also testified in order to weaponize it,
24 correct?

25 A In some cases the IED itself would have weaponization

1 characteristics. In this particular case a commercial firework
2 was modified by adding fragmentation to it to make those
3 weaponization characteristics part of the device.

4 Q And the target that you used was cardboard, correct?

5 A Yes, ma'am. It was.

6 Q Were you provided information that the targets were
7 cardboard?

8 A I had pieces of cardboard that were recovered and provided
9 to me for examination that did not appear to be part of the
10 mortar shell. I don't recall specifically if it said anywhere
11 in the documents I was provided about a cardboard target.

12 Q Okay.

13 A A cardboard target is something we traditionally use out on
14 the range as a demonstrative target for our devices.

15 Q And would you agree that range that we saw in the video,
16 it's a flat ground with gravel on the ground, correct?

17 A It's mostly dirt.

18 Q Mostly dirt.

19 A There is grass. There is taller grass depending if it gets
20 mowed before we get out there, but there is not -- at least up
21 in the front area where we did work it's for the most part flat
22 and there is no trees or anything like that around where we're
23 going to conduct our explosive demonstrations.

24 Q No trees is important for the demonstration purposes?

25 A We don't want to catch stuff on fire.

1 Q Sure.

2 A And everything to get caught up in the trees. So we like
3 to have -- we share that range with the marines. So you know,
4 it's up to their specifications as well.

5 MS. KELLY: Okay. I have nothing further. Thank you.

6 THE COURT: All right. Mr. Hills?

7 MR. HILLS: No, Your Honor. Thank you.

8 THE COURT: Mr. Blanchard?

9 MR. BLANCHARD: Thank you.

10 CROSS EXAMINATION

11 Q Good morning.

12 A Good morning, sir.

13 Q So you talked about the items that I think were in Exhibit
14 436, the smokeless powder and the hobby fuse and that sort of
15 stuff. Do you remember that?

16 A Yes, sir. I do.

17 Q And if I understand correctly, your conclusion is that
18 those items could be assembled into an IED, is that right?

19 A Correct. Readily assembled.

20 Q Readily assembled. It could be, right?

21 A The terminology I used was readily assembled because they
22 were all in the same container, all in the same bag as
23 received.

24 Q My question is your conclusion is they could be assembled,
25 correct?

1 A They could be, correct.

2 Q They were not assembled into an IED -- they were not
3 assembled as an IED in the way they came to you, correct?

4 A No, sir.

5 Q And in order to assemble them, I think you said an IED has
6 a container, a fusing system, and an explosive charge, is that
7 right?

8 A That is correct. Yes.

9 Q And so you would need to know that you need those things in
10 order to build an IED, right?

11 A Yes. You would.

12 Q Okay. Did they send you any reports to review on Cambria,
13 Wisconsin?

14 A No, sir.

15 Q Okay. If you don't know how to build an IED you might fail
16 at that, correct?

17 A Yes. You could fail at constructing an IED.

18 Q And it might do something like go poof or just burn and
19 make smoke, right?

20 A Potentially depending on how its assembled.

21 MR. BLANCHARD: I'll pass the witness.

22 THE COURT: Any redirect?

23 MR. ROTH: None, Your Honor.

24 THE COURT: All right. Thank you. You may be
25 excused.

1 THE WITNESS: Thank you, sir.

2 (Witness excused, 10:45 a.m.)

3 *****

4 MS. KELLY: Thank you, Your Honor. On behalf of
5 Mr. Harris we'll call Colleen Kuester.

6 THE COURT: All right. All right. Ms. Kuester, you
7 can come all the way down here and we'll have you sworn in and
8 once you are sworn in you can walk over and take the witness
9 stand.

10 COLLEEN KUESTER, DEFENSE

11 having been first duly sworn, testified as follows:

12 (Witness sworn, 12:00 p.m.)

13 THE COURT: All right. Please take that stand. Get
14 comfortable, and once you are settled Ms. Kelly will start
15 things up.

16 DIRECT EXAMINATION

17 BY MS. KELLY:

18 Q Good afternoon.

19 A Hello.

20 Q Can you state and spell your name for the record?

21 A My name is Colleen Kuester. C-o-l-l-e-e-n, K-u-e-s-t-e-r.

22 Q Okay. Where do you currently reside?

23 A In Baraboo, Wisconsin.

24 Q And who do you live with in Baraboo, Wisconsin?

25 A I live with my husband and my two children. I have two

1 children that live with me.

2 Q How old are your children?

3 A The ones that live with us are 16 and 18.

4 Q What do you do for a living?

5 A I am a stay-at-home mom and wife and I home school those
6 children.

7 Q Okay. I want to draw your attention to July of 2020. Did
8 you happen to attend some get together in Cambria, Wisconsin?

9 A Yes.

10 Q Okay. How was it that you were invited to that get
11 together?

12 A We were invited by Steve Robeson to a family fun day.

13 MR. ROTH: Your Honor, I am going to object to the
14 hearsay. I understand the question didn't call for it but it
15 appears --

16 THE WITNESS: We were invited --

17 THE COURT: What you can answer and did answer is how
18 you got the invitation. It's from Mr. Robeson. What he said
19 about the nature of the event, if anything, is definitely
20 hearsay, so you'll have to go around that some other way.

21 BY MS. KELLY:

22 Q How do you know Steve Robeson?

23 A He was a customer at our business that we had until 2020.

24 Q Okay. How long had you known him prior to being invited?

25 A We didn't. We knew him very briefly. It's kind of a long

1 story, but we didn't know him very well at all.

2 Q Okay. Did you get invited in person or over social media?

3 A In person.

4 Q Okay. And you decided to go to that event, is that right?

5 A Yes. Yes.

6 Q Who did you go with?

7 A With my husband and my youngest son.

8 Q How old is your -- how old was your youngest son in 2020?

9 A He was 14.

10 Q I am going to show you -- so up on that computer screen
11 that's right in front of you, if we could pull up Exhibit 89?
12 Do you see that photograph that's in front of you?

13 A Yes.

14 MS. KELLY: If we could also publish it to the jury?

15 THE COURT: I was going to say it's already in.

16 MS. KELLY: Thank you.

17 BY MS. KELLY:

18 Q So Ms. Kuester, you can actually touch the screen. If you
19 could point to or make a marking, do you see anyone -- do you
20 see your son in this picture?

21 A Yes.

22 Q Could you make a marking on that for the jury? Okay. You
23 made a little X right there?

24 A Yeah.

25 Q There we go. And then do you also see your husband in that

1 photograph?

2 A Yes. He is next to him.

3 Q Okay. You are not in this photograph, correct?

4 A Nope.

5 Q Okay. Were you standing present when this photograph was
6 being taken?

7 A I was there when the photograph was taken. I was from the
8 perspective of the person taking the picture.

9 Q Do you know who took this picture?

10 A I do not remember who took the picture. I didn't know
11 anybody.

12 Q Okay. So you are at this event. Tell the jury what was
13 your impression of this event?

14 A Okay. It was supposed to be a family fun day, and when we
15 got there, there were a lot of kids, swimming pool, a barbecue,
16 and then there was target practice, which my son was interested
17 in, and that's what they were doing there.

18 Q Tell me about the target practice?

19 A It was in the field they are standing in right there is
20 where it was and it was going the direction that way. So it
21 was the long way like this.

22 Q Okay. You are making a pointing direction?

23 A Right. Basically the vertical direction of the people
24 standing there is the direction of where there was target
25 practice basically.

1 Q Okay. Were they doing anything else other than target
2 practice?

3 A Well, as far as -- there was a lot of things going on, so
4 there were some people talking, some people doing target
5 practice, some people by the pool, some people eating brats.

6 Q And you saw people with firearms, right?

7 A There were people with firearms, yup, but not everybody.

8 Q Okay. And you didn't know a whole lot of people when you
9 got there, is that right?

10 A Right. The only person we knew was the person who invited
11 us.

12 Q Okay. And that was Steve Robeson?

13 A That was. Yes.

14 Q Okay. And did you -- were you aware that there were some
15 guys from Michigan that came to this event?

16 A I heard somebody say something about that, but I was not
17 introduced to them or anything like that.

18 Q Okay. Did the guys from Michigan, did they stand out to
19 you as one way or the other of being scary or you were nervous
20 about them?

21 A No. I wasn't nervous that day at all.

22 Q Okay. And you said your son was interested in target
23 practice, is that right?

24 A Yes. Yes.

25 Q So he picked up a firearm?

1 A Yes. He was helped. He didn't just pick one up. There
2 were responsible adults with him showing him how to do it.

3 Q Okay.

4 A And yes. He did shoot a 22.

5 Q Anything in your mind about that day that caused you to
6 have concern?

7 A No.

8 Q Did you ever go back to that property after that day?

9 A No. I did not. It's not super close to our home and there
10 was no reason to.

11 MS. KELLY: Okay. I have nothing further. Thank you.

12 THE COURT: All right. Any other Defense questions?

13 MR. HILLS: No. Thank you.

14 MR. GIBBONS: No. Thank you, Your Honor.

15 MR. BLANCHARD: I'll pass.

16 THE COURT: Government?

17 MR. ROTH: Thank you, Your Honor.

18 CROSS EXAMINATION

19 BY MR. ROTH:

20 Q Good afternoon.

21 A Hi.

22 Q My name is Jonathan Roth. I am from the United States
23 Attorney's office. I have just a few questions for you.

24 Did you describe this training as goofy?

25 A I don't know. It wasn't very serious I guess.

1 Q All right. Do you remember speaking to an investigator
2 about this case?

3 A Yes.

4 Q Do you recall what word you used to describe the training
5 to the investigator?

6 A Yeah. I suppose goofy a little bit.

7 Q Could we please play Exhibit 82?

8 (Audio started, 12:07 p.m.)

9 (Audio stopped, 12:07 p.m.)

10 MR. ROTH: There we go.

11 MS. KELLY: Turn --

12 THE COURT: This is Exhibit 82?

13 MS. KELLY: I'll place an objection. I am not sure
14 that there is any foundation for this question.

15 THE COURT: All right. Well, I think what we are
16 looking at, Exhibit 82 is a recording of something that
17 happened at the Wisconsin event on July 10.

18 MS. KELLY: And again, I don't think there is
19 foundation that she was present for this event.

20 MR. ROTH: And that's what I intend to follow up.

21 THE COURT: All right. Go ahead.

22 (Audio started, 12:08 p.m.)

23 (Audio stopped, 12:08 p.m.)

24 BY MR. ROTH:

25 Q We don't need to go through the whole thing, but you heard

1 that?

2 A (Witness nodding)

3 Q Yes?

4 A Yes.

5 Q They are talking about making a bomb with BBs, right?

6 A No one talked to me about that.

7 Q No. No. But in that recording?

8 A What's that?

9 Q In the recording we just listened to they are talking about
10 building an explosive with BBs?

11 A I don't know.

12 Q What we just listened to?

13 A Right.

14 Q Did you hear that?

15 MR. GIBBONS: Objection. Asked and answered, Your
16 Honor.

17 THE COURT: It's less important what she thinks. If
18 your point is she didn't participate or hear it then let's get
19 to that, and the jury has already heard the entire transcript
20 and can draw -- and tape and can draw whatever conclusions they
21 want about it.

22 MR. ROTH: Thank you, Your Honor.

23 BY MR. ROTH:

24 Q Did you hear that conversation during the Cambria FTX?

25 A Absolutely not.

1 Q Can we listen to 92, please, another Cambria recording?

2 (Audio started, 12:09 p.m.)

3 (Audio stopped, 12:09 p.m.)

4 BY MR. ROTH:

5 Q Did you hear that conversation during your time at the
6 Cambria FTX?

7 A I did not.

8 Q Could we look at 97 please? Did you see these gentlemen
9 building an explosive during the Cambria FTX?

10 A I did not.

11 Q Can we please play 101?

12 (Audio started, 12:10 p.m.)

13 (Audio stopped, 12:10 p.m.)

14 MR. GIBBONS: Your Honor, I am going to object.

15 THE COURT: The objection is what?

16 MR. GIBBONS: I believe that conversation occurred at
17 a restaurant and not in Cambria at the FTX that this woman
18 attended.

19 THE COURT: Well, it's the same basic weekend and --

20 MR. ROTH: It's the event.

21 THE COURT: Yeah. I think it's fair for the same
22 purpose, and you can develop that if you need to on redirect.
23 Go ahead.

24 MR. ROTH: Thank you, Your Honor. I believe we
25 finished playing that.

1 BY MR. ROTH:

2 Q Do you recall hearing any of that during the FTX that
3 weekend?

4 A No.

5 Q All right. All of these are very different than your
6 experience during your portion of the FTX that weekend?

7 A Yes.

8 MR. ROTH: I have nothing else, Your Honor. Thank
9 you.

10 THE COURT: We'll start with Ms. Kelly on any
11 redirect?

12 REDIRECT EXAMINATION

13 BY MS. KELLY:

14 Q Ms. Kuester, how long were you at this house in Cambria?

15 A About four hours.

16 Q Okay. You didn't go out to eat with anybody else
17 afterwards?

18 A No.

19 Q Okay. You didn't engage in private conversations with
20 anybody?

21 A None of those people.

22 Q Okay. But what you saw and your impression of the event it
23 was a family friendly event?

24 A Yes.

25 MS. KELLY: Nothing further.

1 THE COURT: Mr. Hills?

2 RECROSS EXAMINATION

3 BY MR. HILLS:

4 Q You didn't go over to Steve Robeson's house, did you?

5 A When?

6 Q That weekend?

7 A No.

8 MR. HILLS: Okay. Thank you.

9 THE COURT: Mr. Blanchard?

10 MR. BLANCHARD: No thank you.

11 THE COURT: Mr. Gibbons?

12 MR. GIBBONS: No questions, Your Honor. Thank you.

13 THE COURT: Any recross?

14 MR. ROTH: No, Your Honor. Thank you.

15 THE COURT: All right. Thank you. Thank you. You
16 may be excused.

17 (Witness excused, 12:11 p.m.)

18 THE COURT: We'll go to your next witness, Ms. Kelly.

19 MS. KELLY: Thank you, Your Honor. Call Lindsay
20 Cowan.

21 THE COURT: Ms. Cowan, we'll have you come forward and
22 be sworn in right here. Stand right in front of Mr. Schmidt
23 and be sworn in.

24 LINDSAY COWAN, DEFENSE

25 having been first duly sworn, testified as follows:

1 (Witness sworn, 12:12 p.m.)

2 THE COURT: And then here is the witness stand off to
3 my right, your left. If you just walk around here and then you
4 can get settled in. Take a couple good deep breaths. You need
5 water or not or are you okay?

6 THE WITNESS: Yeah.

7 THE COURT: I'm sure this is what you like to do every
8 day. What you are going to need to do in response to questions
9 is use words out loud. Okay?

10 THE WITNESS: Um-hum.

11 THE COURT: And not um-hum.

12 THE WITNESS: Yes.

13 THE COURT: Yes works perfect.

14 Go ahead, Ms. Kelly.

15 DIRECT EXAMINATION

16 BY MS. KELLY:

17 Q Good afternoon, Ms. Cowan. Could you state and spell your
18 name for the record?

19 A It's Lindsay Cowan. L-i-n-d-s-a-y, C-o-w-a-n.

20 Q How old are you?

21 A Twenty-two.

22 Q Okay. And where do you currently reside?

23 A In Waterford, Michigan.

24 Q Okay. Do you have a brother named Adam?

25 A Yes.

1 Q Okay. Are you currently employed?

2 A Um-hum. Yes. Sorry.

3 Q Where do you work?

4 A Oakland County Courthouse.

5 Q Okay.

6 A As a custodian.

7 Q Okay. I want to take you back to 2020. Okay? You were in
8 a relationship with Devin Phelps, is that right?

9 A Yes.

10 Q Okay. And at some point you met Daniel Harris, is that
11 right?

12 A Yes.

13 Q Okay. Is it true -- how did you first become friends or
14 how did you first meet Daniel Harris?

15 A I met him through Devin.

16 Q Did you become friends on social media or in face to face?

17 A Face to face.

18 Q Okay. Do you recall when that was?

19 A Not the exact date. No.

20 Q Okay. Do you remember spending time with Daniel Harris and
21 Devin Phelps on the 4th of July of 2020?

22 A Yes.

23 Q Okay. Can you tell me about that day?

24 A Yes. We were doing fireworks on the 4th of July.

25 Q Okay. Was that -- do you remember where you were?

1 A At Devin's house.

2 Q Okay. Were there other people around?

3 A Yes.

4 Q Okay. Family?

5 A His friends, family.

6 Q And you took some pictures, right?

7 A Yes.

8 Q Okay. If we could pull up 4149, please? Did you take this
9 picture?

10 A Yes.

11 Q Okay. Did you take other pictures including this one?

12 A Yes.

13 Q Okay. And did you also have a conversation with Daniel
14 Harris that day about your brother Adam?

15 A Yes.

16 Q Okay. And what did you tell Daniel Harris?

17 A I was talking about my brother's blown up hand.

18 Q Okay.

19 A And showed him a picture of that.

20 Q Okay.

21 A Yes.

22 Q You actually took your phone and showed a picture to Daniel
23 Harris?

24 A Yes.

25 Q Okay. And did Daniel Harris ask something of you?

1 A Yes.

2 THE COURT: That's a hearsay problem.

3 BY MS. KELLY:

4 Q Okay. You later texted Daniel Harris the pictures that you
5 took on the 4th of July, right?

6 A Yes.

7 Q Okay. And you also texted Daniel Harris that your brother
8 wasn't responding to you, is that right?

9 A Yes.

10 Q Okay. If we could show Government's Exhibit 408? And if
11 we could blow it up, please?

12 Can you see that okay, Lindsay?

13 A Yes.

14 Q Okay. And at the top I see the name Lindsay. Can you
15 recognize that as being your phone?

16 A Yes. Not my phone.

17 Q Not your phone. Okay. But these are messages that you are
18 sending to Daniel Harris?

19 A Yes.

20 Q Okay. And you texted him that your brother is not
21 responding to you?

22 A Correct. Yup.

23 Q And he said, it's all kosher, is that right?

24 A Yes.

25 Q Okay. Do you know what kosher means?

1 A No, but I am guessing it's all good.

2 MS. KELLY: Okay. I have nothing further. Thank you.

3 THE COURT: All right. Mr. Hills?

4 MR. HILLS: No, Your Honor. Thank you.

5 MR. BLANCHARD: I'll pass.

6 THE COURT: Mr. Gibbons?

7 MR. GIBBONS: I am satisfied, Your Honor. Thank you.

8 THE COURT: Any cross?

9 MR. ROTH: No cross, Your Honor.

10 THE COURT: All right. Thank you. You may be
11 excused.

12 THE WITNESS: Thank you.

13 (Witness excused, 12:17 p.m.)

14 THE COURT: Go to your next witness, Ms. Harris -- I'm
15 sorry. I did it again. Did it again. It's not even late in
16 the day so I have no excuse. I am sorry.

17 THE WITNESS: I am single, Your Honor. I prefer to
18 keep it that way.

19 THE COURT: My apologies.

20 MS. KELLY: It will be Megan Cooley.

21 THE COURT: We'll have you sworn in here, Ms. Cooley.

22 MEGAN COOLEY, DEFENSE

23 having been first duly sworn, testified as follows:

24 (Witness sworn, 12:17 p.m.)

25 THE COURT: The witness stand is right here to my

1 right, your left. Get settled up there and we'll turn it over
2 to Ms. Kelly.

3 DIRECT EXAMINATION

4 BY MS. KELLY:

5 Q Hi, Ms. Cooley.

6 A Hi.

7 Q How are you today?

8 A Good. How are you?

9 Q Good. Could you state and spell your name for the record?

10 A Megan Cooley. M-e-g-a-n, C-o-o-l-e-y.

11 Q How old are you?

12 A Twenty-two.

13 Q And where do you live?

14 A I live in Shelby Township.

15 Q Okay. Are you currently employed?

16 A I am not. I just had a baby so right now I am staying
17 home.

18 Q Congratulations.

19 A Thank you.

20 Q Are you currently in a relationship with Jerad Beauchesne?

21 A Yes.

22 Q Did I say that right?

23 A Beauchesne.

24 Q Beauchesne. Okay. How long have you and Jerad Beauchesne
25 been together?

1 A Almost three years.

2 Q Okay. And I want to bring you back to the summer of 2020.
3 Okay? You and Jerad were living together, is that right?

4 A Correct.

5 Q Okay. And was that also in Shelby Township?

6 A Yes, ma'am.

7 Q Okay. And were you aware that Jerad was involved in --
8 with a group of guys that summer?

9 A Yes.

10 Q Okay. What was your understanding of that group of guys?

11 A Just guys --

12 MR. ROTH: I am going to object for lack of
13 foundation. I also am not sure what exactly it's asking.

14 THE COURT: Say that again. Not exactly sure what?

15 MR. ROTH: I am also not exactly sure what information
16 it calls for.

17 THE COURT: Maybe you can lay a little bit more
18 foundation, Ms. Kelly, because if it's simply what
19 Mr. Beauchesne told her or if she heard from somebody else it
20 may not be a proper foundation for the information. It's not
21 clear she did anything herself with them.

22 BY MS. KELLY:

23 Q In that summer of 2020 was there times that Jerad would
24 have friends that would come over to your guys' house?

25 A Yes.

1 Q Okay. Were there times that you understood Jerad was going
2 to places and shooting guns?

3 A Correct.

4 MR. ROTH: I am going to have the same objection, Your
5 Honor.

6 THE COURT: Okay. Well, I mean, I think that's a
7 fairly generic response so far and fairly generic foundation,
8 but if it gets too much more detailed we'll have to revisit it.
9 Go ahead.

10 MS. KELLY: Okay.

11 BY MS. KELLY:

12 Q Did you have the opportunity to meet Daniel Harris in the
13 summer of 2020?

14 A Yes, ma'am.

15 Q Okay. And were you aware -- were you and Jerad ever
16 attending different protests that were going on in the summer
17 of 2020?

18 A In the summer, no.

19 Q In the springtime?

20 A Yes.

21 Q Okay. That would have been in Lansing?

22 A Correct.

23 Q Okay. Did Jerad have property or does Jerad's family have
24 property somewhere near Luther, Michigan?

25 A Yes.

1 Q Do you know what town that's in?

2 A I believe Bristol, to my knowledge.

3 Q Okay. And in September of 2020, did you go up to Jerad's
4 property with him?

5 A Yes.

6 Q Okay. And specifically on September the 11th, which is a
7 Friday night, did you and Jerad go over to -- let me ask you
8 this. Did you know Ty Garbin?

9 A Yes.

10 Q Okay. This is one of Jerad's friends?

11 A Yes.

12 Q Okay. And on September the 11th of 2020, did you go to Ty
13 Garbin's property with Jerad?

14 A Yes.

15 Q Okay. And were there other people when you arrived at the
16 property?

17 A Yes.

18 Q Can you tell the jury what was happening at the property?
19 What were your impressions?

20 A It was just a bonfire. I was the only girl for a little
21 bit, and they were talking about, like, guy stuff, porn, like
22 politicky things, but that was pretty much it.

23 Q Did you hear any talk about kidnapping the governor?

24 A No.

25 THE COURT: Well, that's a problem with hearsay I

1 think.

2 BY MS. KELLY:

3 Q Do you recall meeting anyone for the first time at Ty's
4 property?

5 A Yes.

6 Q Who was that?

7 A The specific names that I remember are Dan. Not Daniel
8 Harris but the other Dan, and Adam.

9 Q Okay.

10 A And then I did have small talk with other people but I
11 don't remember their names.

12 Q Okay. Other than these guys talking about politics or
13 pornography or other topics, anything that caused you to have
14 concern that evening?

15 A No.

16 Q Okay. Did you go back to Jerad's property on Friday night?

17 A Yes.

18 Q All right. And did you take Jerad back to Ty's property on
19 Saturday?

20 A Yes.

21 Q And you were in Jerad's truck, is that right?

22 A Correct.

23 Q Do you remember what kind of truck he had?

24 A It's a 2500 Chevy, red, Sierra.

25 Q It is a Sierra. Okay. If we could pull up 4146, please,

1 T?

2 A That's her.

3 Q That's her you said?

4 A Yes.

5 Q Okay. So this is Jerad's truck and you recognize that,
6 right?

7 A Yes.

8 Q Okay. So you are driving back onto the property on
9 Saturday. Do you stay on the property at Ty's house that
10 Saturday?

11 A Only for probably about 20 minutes and then I left.

12 Q Okay. Did you see Daniel Harris at the property that day?

13 A He arrived right about the time that I was leaving. I
14 think I talked to him for probably, like, five minutes.

15 Q Okay. And then where did you go that day?

16 A I went back to the property. I shot my own firearms for a
17 little bit. I went to Cadillac. I walked around all the
18 little mom and pop stores. I went and saw a movie. And then I
19 went back to the property -- or I was driving back to the
20 property.

21 Q Okay. When you are driving back and driving back to
22 Jerad's property, did you happen to run into Daniel Harris and
23 others in the Bristol area?

24 A Yes.

25 Q Okay. And who was Daniel Harris with?

1 A He was with Jerad and then another person, but I don't know
2 who that person was.

3 Q Okay. And where did you see them?

4 A So there is a street -- say, you are going down this road,
5 Jerad's property is down this one. They were coming onto that
6 main road and I was heading towards the property, and then they
7 were like, we are going to the Bristol store, and so I turned
8 around and went with them.

9 Q Okay. Let me show you -- this is a Defense Proposed
10 Exhibit 4094, page 1. Just to the witness.

11 A That's --

12 Q Have you had an opportunity to review this photograph?

13 A Yes.

14 Q Okay. And is this a fair and accurate representation of
15 the Bristol store that you just testified?

16 A Yes.

17 MS. KELLY: I'd move for its admission?

18 THE COURT: Any objections?

19 MR. ROTH: It sounds like counsel mentioned that only
20 page 1. Understanding that 4094 is only this particular
21 picture I have no objection.

22 THE COURT: All right. It's admitted.

23 BY MS. KELLY:

24 Q Okay, Megan. So this is the Bristol store that you were
25 talking about?

1 A Correct.

2 Q Okay. And you followed Jerad and Daniel and the other
3 individual back to this store, is that right?

4 A Correct.

5 Q And this is Saturday?

6 A Correct.

7 Q Okay. Do you recall the approximate time that this was?

8 A To my knowledge it would have to be around seven o'clock.

9 Q Okay. And you obviously knew Daniel Harris, right?

10 A Correct.

11 Q And was Jerad wearing something distinctive on the top of
12 his head when you saw him?

13 A He had a poop emoji hat on.

14 Q If we could show the witness only 4096?

15 A Yes. That's the hat.

16 Q Have you had an opportunity to review this photograph?

17 A Yes.

18 MR. ROTH: I would object to its admission. There is
19 certainly a foundation but I don't think there is any
20 relevance.

21 THE COURT: I am not sure there is much relevance
22 either but we will allow it. It's just one page, right? Just
23 the photo?

24 MS. KELLY: Yes, Your Honor.

25 BY MS. KELLY:

1 Q So Megan, is this a fair and accurate representation of
2 what Jerad was wearing when you saw him at the Bristol store at
3 approximately seven o'clock that evening?

4 A Yes.

5 Q Okay. And what was the mood that these three guys were in
6 when you saw them?

7 A Really goofy.

8 Q Really goofy?

9 A Yes.

10 Q Typical of these guys?

11 A Yes.

12 Q Okay. You seen Daniel Harris drink before?

13 A Yes.

14 Q Okay. In your opinion, how many times have you seen him
15 drink before?

16 A I am not sure.

17 Q Okay. Have you seen him intoxicated?

18 A No.

19 Q Okay. In your opinion, when you saw Daniel Harris on that
20 Saturday night at the Bristol store, was he falling down drunk?

21 A No.

22 Q And so --

23 And you can take that down. Thank you.

24 Do you know what kind of car the three guys were in?

25 A I know that it was a truck. I don't remember make and

1 model.

2 Q Okay. Fair enough. And did anyone go into that Bristol
3 store, any of the three guys?

4 A I know Dan and Jerad did. I am not sure about the third
5 person. I don't remember.

6 Q Okay. Did you see Daniel bringing anything out of the
7 Bristol store?

8 A I believe just beer.

9 Q Okay. Was it a significant amount of beer?

10 A No. I believe it was just one container to my knowledge.

11 Q Okay. After Daniel Harris comes out with beer, what did
12 the boys do?

13 A They went back to Ty's property and I went back to Jerad's.

14 Q Okay. And then did you later come and pick Jerad back up
15 from Ty's property?

16 A Yes.

17 Q Do you know approximately what time that was?

18 A I am not sure. It was before 10 o'clock.

19 Q Did you get out of your truck when you went to Ty's
20 property?

21 A No.

22 Q Okay. And you didn't have any discussion about what was
23 going on in the property, right, when you were not there?

24 MR. ROTH: I object to the hearsay.

25 THE COURT: I think that's true if it's discussion

1 that calls for conversations that involve people who aren't
2 testifying.

3 MS. KELLY: I have nothing further. Thank you.

4 THE COURT: All right. Mr. Hills?

5 MR. HILLS: Nothing, Your Honor. Thank you.

6 THE COURT: Mr. Blanchard?

7 MR. BLANCHARD: No thank you.

8 THE COURT: Mr. Gibbons?

9 MR. GIBBONS: Yeah. Just a couple questions, Your
10 Honor.

11 CROSS EXAMINATION

12 BY MR. GIBBONS:

13 Q You testified you were present at the property on Friday
14 evening for a few minutes, is that correct?

15 A Correct.

16 Q And you indicate that you remember Dan, another Dan, a
17 bigger Dan being there?

18 A Correct.

19 Q In addition to Daniel Harris?

20 A Correct.

21 Q And then you also I think said Adam was there, Adam Fox?

22 A Correct.

23 Q Did you smoke marijuana with Adam Fox that evening?

24 A I did.

25 Q Okay. And did it look like it was a new experience for

1 him?

2 MR. ROTH: Objection. Lack of foundation,
3 speculation.

4 THE COURT: Well, I mean, kind of an awkward
5 foundation to lay, but I guess if you want to establish that
6 she is familiar with people smoking marijuana and how they look
7 you can do it and if you can't lay that foundation she probably
8 doesn't have a basis to answer.

9 MR. GIBBONS: I am satisfied, Your Honor. Thank you.

10 THE COURT: All right. Mr. Roth?

11 MR. ROTH: Thank you, Your Honor.

12 CROSS EXAMINATION

13 BY MR. ROTH:

14 Q I'd like to start by playing Exhibit 167, a recording from
15 August 23rd, 2020, please?

16 MS. KELLY: I am going to object to this line of
17 questioning. This witness was for a limited purpose of being
18 at Luther on a limited time period.

19 THE COURT: All right. Just outline the purpose for
20 where you want to go with it if you would.

21 MR. ROTH: It's a statement by Jerad Beauchesne. She
22 can recognize his voice. And I think that speaks to her state
23 of mind in testifying today and any bias she may have.

24 THE COURT: All right. Well, what was the exhibit you
25 want?

1 MR. ROTH: 167, Your Honor.

2 THE COURT: All right. We'll permit it for that
3 purpose. It's already in evidence in any event.

4 (Audio started, 12:31 p.m.)

5 (Audio stopped, 12:32 p.m.)

6 THE COURT: Why don't you stop it now because it seems
7 to me we are well beyond the language of Mr. Beauchesne and
8 whether she can recognize the voice or not.

9 MR. ROTH: That's fine, Your Honor. Thank you.

10 BY MR. ROTH:

11 Q Did you recognize Mr. Beauchesne's voice there?

12 A Yes.

13 Q You heard him say, nobody talks, everybody walks?

14 MS. KELLY: I am going to object to relevance again,
15 Your Honor.

16 THE COURT: He said the relevance was motive. They'll
17 argue that the witness is motivated along the timelines and
18 it's an argument, but I think he is fairly inquiring. Go
19 ahead.

20 MR. ROTH: Thank you, Your Honor.

21 BY MR. ROTH:

22 Q You heard him say that, ma'am?

23 A Yes.

24 Q All right. You live with Mr. Beauchesne now?

25 A I do.

1 Q Spoke to him today?

2 A Yes.

3 Q Spoke to him before you came in here today?

4 A Yes.

5 Q And your testimony is that around 7:00 p.m. you saw Daniel
6 Harris at the liquor -- I am sorry. It's not a liquor store.
7 The Bristol store with two other men?

8 A Correct.

9 Q They went inside. All three came out?

10 A I am not sure.

11 Q How many came out?

12 A I am not -- I don't know if the third one went in or not.
13 I just remember seeing Jerad and Dan in there.

14 Q How many containers of alcohol did Jerad Beauchesne have in
15 your memory?

16 A I don't remember Jerad having any, but I do remember Dan
17 having one.

18 Q And you said Dan had one. Did you use the word container?

19 A Yes. Container.

20 Q It's an odd word for a beer. Was it a can, a case, a
21 bottle?

22 A I am not much of a drinker so I guess I just meant like a
23 case.

24 Q A case?

25 A Um-hum.

1 Q Okay. That's a yes?

2 A Yes.

3 Q Tell me what you mean by a case of beer?

4 A A case of beer.

5 Q Right. So is it the tall box of bottles that you could
6 tell; is it a big box of cans?

7 A I do not recall.

8 Q Could you give us an estimate with your hands about how big
9 this case of beer was that Daniel Harris was bringing back to
10 camp?

11 A I do not recall. I just remember seeing him carrying one.

12 MR. ROTH: Nothing else, Your Honor. Thank you.

13 THE COURT: All right. Go back to Ms. Kelly?

14 MS. KELLY: I have nothing Your Honor. Thank you.

15 THE COURT: Mr. Hills?

16 MR. HILLS: I am just thinking.

17 CROSS EXAMINATION

18 BY MR. HILLS:

19 Q The government played you a very short clip. You
20 recognized Jerad in that, is that correct?

21 A Yes, sir.

22 Q But did anybody play you the context of that?

23 A No.

24 Q Like what was said before that, before the clip?

25 A No.

1 Q Or after it?

2 A No.

3 MR. HILLS: Okay. Thank you.

4 THE COURT: Mr. Blanchard?

5 MR. BLANCHARD: Nothing.

6 THE COURT: Mr. Gibbons?

7 MR. GIBBONS: I have no questions, Your Honor.

8 THE COURT: Anything else?

9 MR. ROTH: No, Your Honor. Thank you.

10 THE COURT: All right. Thank you. You may be
11 excused.

12 (Witness excused, 12:35 p.m.)

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REPORTER'S CERTIFICATE

I, Paul G. Brandell, CSR-4552, Official Court Reporter for the United States District Court for the Western District of Michigan, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a full, true and correct transcript of an excerpt from the proceedings had in the within entitled and numbered cause on the date hereinbefore set forth; and I do further certify that the foregoing transcript has been prepared by me or under my direction.

/s/ Paul G. Brandell

Paul G. Brandell, CSR-4552, RPR, CRR

U.S. District Court Reporter

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